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Transcript of John Lucas

Date: March 11, 2022

Case: Krasno -v- Board of Regents of University of Wisconsin, et al.

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Transcript of John Lucas
Conducted on March 11, 2022

1 (1 to 4)

1	IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WISCONSIN -----X MADELINE KRASNO, : Plaintiff, : Case No.: v. : 21-CV-00099-SLC BOARD OF REGENTS OF THE : UNIVERSITY OF WISCONSIN, : et al., : Defendants. : -----X VIDEOTAPED DEPOSITION JOHN LUCAS CONDUCTED VIRTUALLY FRIDAY, MARCH 11, 2022 10:05 a.m. CST Job No.: 436365 Pages 1 - 149 Reported by: APRIL REID	3
2	A P P E A R A N C E S ON BEHALF OF DEFENDANTS BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN, et al.: LYNN LODAHL, ESQ. STEVEN C. KIRKPATRICK, ESQ. Assistant Attorney Generals Wisconsin Department of Justice 409 E. Main Street Madison, WI 53703 (608) 257-0040 ALSO PRESENT: MADELINE KRASNO, Plaintiff CRAIG FISHER, ESQ., UW JOSEPH TORREZ, Remote Technician ROBERT LEONARD, Videographer - - - - -	
2	Videotaped Deposition of JOHN LUCAS held virtually. All appeared remotely. A P P E A R A N C E S ON BEHALF OF THE PLAINTIFF MADELINE KRASNO: JESSICA L. FARLEY, ESQ. LAFHEY LEITNER & GOODE 325 E. Chicago Street Suite 200 Milwaukee, WI 53202 (414) 312-7003 and CHRISTOPHER A. BERRY, ESQ. ANIMAL LEGAL DEFENSE FUND 525 E. Cotati Avenue Cotati, CA 94931 (707) 795-2533 ext. 1041	4
3	I N D E X JOHN LUCAS. PAGE Examination by Ms. Farley 10 Examination by Ms. Lyndahl 147 E X H I B I T S Plaintiff DESCRIPTION PAGE Exhibit 50 E-mail chain, Bates No. 22 UW0066-'72 Exhibit 51 E-mail chain, Bates No. 25 UW0082 Exhibit 52 E-mail chain, Bates No. 27 UW0039-'40 Exhibit 53 E-mail chain, Bates No. 30 UW0525-'26 Exhibit 54 E-mail chain, Bates No. 32 UW0029(1) Exhibit 55 E-mail chain, Bates No. 35 UW0021-'23 Exhibit 56 Text chats, Bates No. UW0455 39	

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1	E X H I B I T S		1	E X H I B I T S	
2	Plaintiff	DESCRIPTION PAGE	2	Plaintiff	DESCRIPTION PAGE
3	Exhibit 57	Screenshot of the page 45	3	Exhibit 76	Microsoft Teams chat message, 139
4		settings for Facebook, Bates	4		Bates No. UW0415
5		No. UW0002	5	Exhibit 77	Microsoft Teams chat message, 141
6			6		Bates No. UW0774
7	Exhibit 58	University of Wisconsin 50	7	Exhibit 78	Microsoft Teams chat message, 143
8		Social Media Statement, Bates	8		Bates No. UW0378
9		No. UW0001	9	Exhibit 79	Microsoft Teams chat message, 145
10	Exhibit 59	Memo regarding interim social 56	10		Bates No. UW0696
11		media moderation guidance,	11	Exhibit 80	Microsoft Teams chat message, 146
12		Bates No. UW0076	12		Bates No. UW0719
13	Exhibit 60	E-mail chain, Bates No. 70	13		
14		UW0397-'398	14		- - - - -
15	Exhibit 61	E-mail chain, Bates No. 80	15		
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17	Exhibit 62	E-mail chain, Bates No. 87	17		
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19	Exhibit 63	E-mail chain, Bates No. 95	19		
20		UW0626	20		
21	Exhibit 64	Instagram comments, Bates No. 101	21		
22		UW0341	22		
23	Exhibit 65	Instagram comments, Bates No. 106	23		
24		UW0313	24		
25			25		
6			8		
1	E X H I B I T S		1	P R O C E E D I N G S	
2	Plaintiff	DESCRIPTION PAGE	2	THE VIDEOGRAPHER: Here begins video	
3	Exhibit 66	Facebook comments, Bates No. 108.	3	file number 1 in the video deposition of John	
4		UW0297	4	Lucas in the matter of Krasno vs. Board of	
5	Exhibit 67	Facebook comments, Bates No. 109	5	Regents of -- Board of Regent University of	
6		UW0317	6	Wisconsin, et al., in the United States	
7	Exhibit 68	Facebook comments, Bates No. 114	7	District Court for the District -- for the	
8		UW0218	8	Western District of Wisconsin, Case No.	
9	Exhibit 69	Email chain, Bates No. UW0730 118	9	21-CV-00099 SLC.	
10	Exhibit 70	Microsoft Teams Chat texts, 120	10	Excuse me. One moment. Excuse me.	
11		Bates No. UW0429	11	I'm -- I apologize. It's SLC.	
12	Exhibit 71	Text message, Bates No. 123	12	Today's date is March 11, 2022. The	
13		UW0396	13	time on me video monitor is 10:05 a.m.	
14	Exhibit 72	Microsoft Teams message, 126	14	Central Time.	
15		Bates No. UW0449	15	My name is Robert Leonard. I'm the	
16	Exhibit 73	Microsoft Teams message, 132	16	video specialist. I represent Planet Depos.	
17		Bates No. UW0688	17	This deposition is being taken via Zoom	
18	Exhibit 74	Memo Regarding Interim Social 134	18	online.	
19		Media Moderation Guidance,	19	Will counsel please identify themselves	
20		dated 2-7-22	20	verbally and state who they represent.	
21	Exhibit 75	Text messages, Bates No. 136	21	MS. FARLEY: Jessica Farley, on behalf	
22		UW0716	22	of plaintiff, Madeline Krasno.	
23			23	MS. LODAHL: Assistant Attorney General	
24			24	Lynn Lodahl, on behalf of defendants. I'm	
25			25	representing the witness, John Lucas.	

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3 (9 to 12)

<p>9</p> <p>1 MR. BERRY: Christopher Berry on behalf 2 of plaintiff. 3 THE VIDEOGRAPHER: The court reporter 4 today is April Reid. She also represents 5 Planet Depos. 6 Will the court reporter please swear in 7 the witness. 8 THE COURT REPORTER: Good morning, 9 Mr. Lucas. If you will please raise your 10 right hand. 11 THEREUPON: 12 JOHN LUCAS 13 being first duly sworn or affirmed to 14 testify to the truth, the whole truth, and 15 nothing but the truth, was examined and 16 testified as follows: 17 THE COURT REPORTER: Thank you, sir. 18 We may begin. 19 EXAMINATION 20 BY MS. FARLEY: 21 Q. Good morning, Mr. Lucas. My name is 22 Jessica Farley, and I represent Plaintiff Madeline 23 Krasno in this matter. 24 Now, you have just been sworn in. Do 25 you understand that you are under oath?</p>	<p>11</p> <p>1 Otherwise, I will assume that you have understood 2 the question. 3 And lastly, please let me know if you 4 need to take a break, use the restroom. The only 5 thing I ask is that if there's a question pending, 6 you finish answering the question before we take 7 that break. 8 A. I understand. 9 Q. Do you understand these rules? 10 A. Yes. 11 Q. Okay. Great. 12 Did you review any documents in 13 preparation for your testimony today? 14 A. Yes. 15 Q. And just very generally, what did you 16 review? 17 A. I was given a box/folder of documents 18 that related to mainly e-mail records. 19 Q. Okay. Okay. I'd like to go over your 20 background and your employment history. 21 And I know you've worked for UW for 22 quite some time, so let's start before -- you 23 know, let's start with your first position after 24 college. 25 A. Prior to my UW employment?</p>
<p>10</p> <p>1 A. I do. 2 Q. And that this has the same significance 3 as if you were testifying in a court of law before 4 a judge or a jury? 5 A. Yes. 6 Q. Okay. Have you ever been deposed 7 before? 8 A. I have. 9 Q. How many times? 10 A. I believe once or twice. 11 Q. Okay. Okay. Just to refresh your 12 memory, I'm going to go over some of the 13 deposition ground rules. 14 As the technician mentioned, please 15 allow me to finish my question before you start an 16 answer, and I'll try to let you finish before 17 proceeding with the next question, just so that we 18 don't talk over each other; and it helps the court 19 reporter when she's transcribing. 20 Please answer in yes or no form instead 21 of uh-huh or uh-uh or by moving your head, shaking 22 your head, as that won't be picked up on the 23 transcript. 24 And if I ask a question and you don't 25 understand it, please ask me to rephrase.</p>	<p>12</p> <p>1 Q. Yes. 2 A. Yes. 3 So my first job, I was a newspaper 4 reporter at a newspaper outside Chicago called the 5 Aurora Beacon. 6 Following that, I was a newspaper 7 reporter in Memphis, Tennessee at a newspaper 8 called the Commercial Appeal. 9 And then I joined UW Madison in 2001. 10 Q. Okay. Okay. 11 And what was your position at UW Madison 12 in 2001? 13 A. It was called the University Relations 14 Specialist in the office of University 15 Communications. 16 Q. Okay. And what did your job duties 17 entail in that position? 18 A. Mainly, working with media, writing news 19 releases, and covering student issues and student 20 affairs. 21 Q. Did it have any relationship to social 22 media? 23 A. There really wasn't social media in 24 2001. 25 Q. Okay. Okay. And then, what was your</p>

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<p>13</p> <p>1 next position at UW Madison?</p> <p>2 A. I mean, technically, then I -- I gained</p> <p>3 a different title, called Senior University</p> <p>4 Relations Specialist, which had, you know, added</p> <p>5 responsibilities with many of the same things that</p> <p>6 I had just described.</p> <p>7 Q. Okay. Okay.</p> <p>8 And what were the added</p> <p>9 responsibilities?</p> <p>10 A. Working on more complex issues and media</p> <p>11 requests and more service to the vice chancellors</p> <p>12 and the -- the chancellor.</p> <p>13 Q. Okay. Okay.</p> <p>14 And then, what was your next position?</p> <p>15 A. So there were a series.</p> <p>16 I served in a role where I managed</p> <p>17 internal communications for UW Madison.</p> <p>18 Basically, you know, sending newsletters to -- to</p> <p>19 faculty and staff, would have been the next one.</p> <p>20 Q. Okay. And then, moving along to the</p> <p>21 next position?</p> <p>22 A. From there, then I added duties that</p> <p>23 included photo and video oversight. And then,</p> <p>24 around that time, was sort of the early beginnings</p> <p>25 of social media, which we were starting at the</p>	<p>15</p> <p>1 Q. Okay. Okay.</p> <p>2 And then, moving along to your next</p> <p>3 position.</p> <p>4 A. Sure.</p> <p>5 I became an Interim Director of</p> <p>6 Communications and then sort of full Director of</p> <p>7 Communications, overseeing university</p> <p>8 communications.</p> <p>9 Q. Okay. And is that your current</p> <p>10 position?</p> <p>11 A. Somewhere along the way, then they</p> <p>12 changed my title, then, to Assistant Vice</p> <p>13 Chancellor of Communications and Chief</p> <p>14 Communications Officer.</p> <p>15 Q. Okay. Okay.</p> <p>16 Can you describe for me your day-to-day</p> <p>17 job duties?</p> <p>18 A. Sure.</p> <p>19 I mean, similar to the things that I</p> <p>20 described before, I oversee the production of news</p> <p>21 content, research communications, internal</p> <p>22 communications, issues, media relations, crisis</p> <p>23 communications, photo, social, video production,</p> <p>24 our Alumni Magazine and then our executive</p> <p>25 communications function.</p>
<p>14</p> <p>1 institution; and at that point, I think I became</p> <p>2 an assistant director of communications.</p> <p>3 Q. Okay. And approximately, what date was</p> <p>4 that?</p> <p>5 A. Roughly, like 2008, I think.</p> <p>6 Q. Okay. Okay.</p> <p>7 And then, moving along from there.</p> <p>8 A. Yeah.</p> <p>9 Moving on, then the next role would have</p> <p>10 been the Director of News & Media Relations, which</p> <p>11 was sort of overseeing mainly our content that we</p> <p>12 produce, you know, at the institution; working</p> <p>13 with media more closely, overseeing, you know,</p> <p>14 responses to media, records requests and other</p> <p>15 complex issues.</p> <p>16 Q. Okay. Okay.</p> <p>17 And did that involve social media as</p> <p>18 well?</p> <p>19 A. At that time, that would have over --</p> <p>20 continued to oversee social media.</p> <p>21 Q. Okay. And when you say "oversee social</p> <p>22 media," like were you someone that was consulted</p> <p>23 on moderation decisions?</p> <p>24 A. I would have been in that time period,</p> <p>25 yes.</p>	<p>16</p> <p>1 Q. Okay. Okay.</p> <p>2 So, yeah, you've got quite a few hats</p> <p>3 that you're filling, it sounds like.</p> <p>4 And right now in your current position,</p> <p>5 are you in charge of social media moderation</p> <p>6 decisions?</p> <p>7 A. I oversee the staff that conduct</p> <p>8 those -- that -- those activities.</p> <p>9 Q. Okay. And who would that be?</p> <p>10 A. Sure.</p> <p>11 Mike Klein and then Nate Moll.</p> <p>12 Q. Okay. Thank you.</p> <p>13 So how many employees report directly to</p> <p>14 you?</p> <p>15 A. I oversee a staff of about 25, but I</p> <p>16 have, I think, seven staff that report directly to</p> <p>17 me.</p> <p>18 Q. Okay. And would Nate Moll report</p> <p>19 directly to you?</p> <p>20 A. No.</p> <p>21 Q. Okay. And what about Mike Klein?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Okay.</p> <p>24 Now, which departments in -- at the</p> <p>25 University have responsibility for overseeing the</p>

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<p>17</p> <p>1 University's social media accounts on Facebook and 2 Instagram?</p> <p>3 A. University Communications.</p> <p>4 Q. Okay. Okay.</p> <p>5 Does each department have its own page 6 on Facebook or Instagram, however?</p> <p>7 A. Like departments across the university?</p> <p>8 Q. Yes.</p> <p>9 A. Many do, yes.</p> <p>10 Q. Are they responsible, the departments 11 themselves, for moderating those communications on 12 the -- their pages?</p> <p>13 A. That's correct.</p> <p>14 Q. Okay. Now, switching back to your 15 position, who do you report to?</p> <p>16 A. My supervisor is Charles Hoslet, who is 17 the Vice Chancellor for University Relations.</p> <p>18 Q. Okay. Now I want to go back and kind of 19 dig in a little bit to your job duties, 20 specifically as it relates to overseeing social 21 media moderation.</p> <p>22 Do you ever -- does your position ever 23 entail you reviewing social media posts?</p> <p>24 A. That other staff would have made 25 essentially? Like, reviewing their posts or --</p>	<p>19</p> <p>1 button, so to speak, to -- to hide a comment or to 2 block a user, for example?</p> <p>3 A. I have access to the university's 4 Facebook account. I don't think I currently have 5 access to the university's Instagram account. And 6 it would be very rare that I would moderate a 7 specific comment on a post.</p> <p>8 Q. Okay. Have you ever had occasion to 9 elevate decision making on whether or which 10 posts -- I should say, which comments by the 11 public should be moderated to your superiors?</p> <p>12 Have you ever had occasion to do that?</p> <p>13 A. No.</p> <p>14 Q. Okay. And who would you get involved if 15 you had to do -- if you had a question on 16 moderating a specific comment?</p> <p>17 A. I -- I wouldn't typically need to 18 consult the vice chancellor or the chancellor 19 about moderating a -- a specific post, if that 20 answers your -- your question.</p> <p>21 Q. Okay. So, in essence, you would be able 22 to make that decision?</p> <p>23 A. I would make it or if I felt like I had 24 a question, I would probably consult with our 25 attorneys.</p>
<p>18</p> <p>1 Q. Or --</p> <p>2 A. Can you clarify a little bit?</p> <p>3 Q. Sure. Absolutely.</p> <p>4 That other staff would have made or that 5 the public would have commented on in terms of on 6 the specific post made by the staff.</p> <p>7 A. My role would mainly be consulting with 8 staff on what types of content were going to be 9 shared on what types of accounts.</p> <p>10 It would be very rare that I would go 11 back into a post and then actively review comments 12 and moderate them.</p> <p>13 Q. Okay. So if Nate Moll had a question on 14 moderating a post, or Mike Klein, would that be 15 something they would bring to you?</p> <p>16 A. It would be much more frequent that I 17 would consult with them about the types of content 18 and the different posts that we would be making 19 and deciding which accounts to -- to place them 20 on.</p> <p>21 I could be asked those questions about 22 moderation, but I would say it's very rare.</p> <p>23 Q. Okay. Okay.</p> <p>24 And if a moderation needs to be made, 25 you're not the one who is pushing the actual</p>	<p>20</p> <p>1 Q. Okay. Okay.</p> <p>2 Has your oversight of content moderation 3 changed at all as a result of this lawsuit?</p> <p>4 A. No.</p> <p>5 Q. Okay. And has -- in your opinion, has 6 comment moderation, in general, by the university 7 changed as a result of this lawsuit?</p> <p>8 A. No.</p> <p>9 Q. Okay. And why would you say that?</p> <p>10 A. I mean, over time we followed guidelines 11 that the university has created around content 12 moderation.</p> <p>13 More recently, and I don't recall how 14 long ago it was, but we were given additional 15 interim guidance by our Office of Legal Affairs, 16 that provided new guidance for us to follow.</p> <p>17 Q. Okay. Okay.</p> <p>18 Now, switching gears a bit -- we'll talk 19 about that guidance a little bit later, but I 20 wanted to talk about: What are the 21 responsibilities of the Director of Research 22 Communications?</p> <p>23 A. Sure.</p> <p>24 Kelly Tyrrell is -- or up until 25 recently -- we just had a small change in</p>

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6 (21 to 24)

<p>21</p> <p>1 staffing -- is the Director of Research 2 Communications. She would generally be 3 responsible for working with faculty members, in 4 creating news releases and posts about, you know, 5 papers or studies that were conducted about the 6 institution, answering media requests about the 7 research enterprise, and dealing with any issues 8 that occurred in that space. 9 Q. Okay. And does that position fall under 10 the Communications Department? 11 A. Yes. 12 Q. Does Ms. Tyrrell report to you? 13 A. Yes. 14 Q. Okay. Now, when you say that research 15 commun- -- you said Research Communications. Is 16 that an umbrella for things that involve animal 17 research? 18 A. Yes. 19 Q. Okay. Does Ms. Tyrrell have any role in 20 moderating social media postings or comments by 21 the public? 22 A. Not in a day-to-day way, no. 23 Q. Okay. What about her staff? 24 A. Also not in a day-to-day capacity. 25 Q. Okay. And when I refer to her "staff,"</p>	<p>23</p> <p>1 little bit. 2 Q. I believe this is Exhibit 50. 3 And it looks like the title here of the 4 e-mail is regarding a PFP comment moderation 5 issue. And it relates to the moderation of 6 comments on social media. 7 Would that be a fair characterization of 8 what you see here on the screen? 9 A. Yes. 10 Q. Okay. And in response to receiving this 11 e-mail -- you can see in the second chain there -- 12 you forward it to Kelly Tyrrell who, as we spoke 13 before, is the Director of Research 14 Communications; is that correct? 15 A. Correct. 16 Q. So you looped her in on a discussion 17 about social media moderation. And why is that? 18 A. I -- I don't specifically recall the -- 19 the context of this issue. 20 Q. Do you typically loop her in on things 21 to do with potential moderation discussions? 22 A. I mean, she generally does not conduct 23 moderation, but we share information through our 24 office on a variety of issues. 25 Q. Okay. Okay.</p>
<p>22</p> <p>1 I -- I believe Chris Barncard is another 2 individual. Is he a direct report to Ms. Tyrrell? 3 A. Yes. 4 Q. Okay. And what is his official title? 5 A. I'm sorry. We just changed all of our 6 titles. 7 I believe his -- his official title is 8 science writer or communications specialist. 9 Q. Okay. Okay. But he generally falls 10 under the Research Communications umbrella? 11 A. Correct. 12 Q. Okay. 13 MS. FARLEY: Joe, could you pull up 14 UW0066, please. 15 REMOTE TECHNICIAN: Please stand by. 16 Counselor, that was 0006? 17 MS. FARLEY: 0066. 18 REMOTE TECHNICIAN: 0066. I apologize. 19 (Exhibit 50 was marked for 20 identification and is attached to the 21 transcript.) 22 BY MS. FARLEY: 23 Q. Okay. We have in front of us a 24 document. It looks like it's been marked -- 25 MS. FARLEY: If you could scroll up a</p>	<p>24</p> <p>1 It looks like -- so it kind of looks 2 like, from this e-mail, that the Research 3 Communications group does have some role or some 4 need to know to be looped in on moderation; is 5 that fair? 6 A. The Research Communications office had 7 supported our COVID response, and Kelly was a key 8 person who functioned as sort of our number 2 or 9 number 3 person in dealing with anything from 10 promotion of vaccines to mask wearing. 11 So, again, I don't specifically recall 12 what this issue was, but it would not have 13 necessarily exclusively been a Research 14 Communications discussion. 15 Q. Okay. 16 A. Especially in this time period. 17 Q. Okay. Now, just in general, how is the 18 Research Communications group involved in 19 responding to, for instance, social media comments 20 that are critical of animal testing? 21 A. I think that's a better question for -- 22 for probably Mike and Nate, whether they're 23 consulted. 24 Again, I think we shared, you know, 25 information across a small office with some</p>

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<p>25</p> <p>1 regularity, but it's not my sense that they would 2 be conducting that activity on a regular basis. 3 Q. Okay. Okay. 4 MS. FARLEY: Joe, could you pull up 5 UW0082, please. 6 REMOTE TECHNICIAN: Stand by. 7 (Exhibit 51 was marked for 8 identification and is attached to the 9 transcript.) 10 MS. LODAHL: Okay. Could we make the 11 image just a bit bigger. I'm having trouble 12 reading it on my screen. 13 MS. FARLEY: Absolutely. 14 Is that a little bit better -- 15 MS. LODAHL: Yes. 16 MS. FARLEY: -- or should we zoom in 17 more? 18 MS. LODAHL: That's fine. Thank you. 19 MS. FARLEY: Sure. 20 BY MS. FARLEY: 21 Q. So, okay, right in front of us looks 22 like we have an e-mail that says, forward, 23 "Primate Research-Facebook Complaint." 24 Is that correct? 25 A. Yes.</p>	<p>27</p> <p>1 A. I recall in a more specific context that 2 Ms. Krasno held either an event or events 3 advancing her views of animal research that the 4 research community would have been apprized of and 5 potentially shared -- I'm sorry, that the Research 6 Communications group would have been apprized of 7 and potentially shared out further to people who 8 manage animal research on campus. 9 Q. Okay. Okay. 10 MS. FARLEY: Joe, could you pull up 11 UW0039, please. 12 REMOTE TECHNICIAN: Counselor, there is 13 a 39(1) and a 39 without a (1). So, there is 14 a 39 with a 1 in parentheses and one without. 15 MS. FARLEY: Oh. Just the first one. 16 Just the 0039 without the 1. 17 REMOTE TECHNICIAN: Yes, ma'am. Thank 18 you. 19 (Exhibit 52 was marked for 20 identification and is attached to the 21 transcript.) 22 MS. FARLEY: Thank you. 23 BY MS. FARLEY: 24 Q. Now, here is -- it looks like an e-mail 25 forward. The title is "Madeline Krasno's</p>
<p>26</p> <p>1 Q. And it looks like Meredith receives this 2 from a Danielle -- I'm sorry, Denise Hickey, but 3 then forwards it to both yourself and Kelly 4 Tyrrell to address; is that correct? 5 A. Yes. 6 Q. Now, what happened with this particular 7 response, do you recall? 8 A. I don't recall, and nor do I -- I'm 9 sorry, I don't recall what this complaint was. 10 Q. Okay. I'll represent to you it was a 11 complaint on Reddit that UW was hiding comments 12 critical of primate research. 13 Does that jog your memory at all? 14 A. No. I'm sorry. 15 Q. Okay. Okay. 16 Does your team ever communicate about 17 the plaintiff in this suit, Ms. Madeline Krasno? 18 A. I'm aware at a certain point that there 19 was communication about Ms. Krasno. I don't 20 recall whether there was anything in this specific 21 post that would have related to her or not. 22 Q. Okay. Does your team ever communicate 23 about Ms. Krasno with the Research Communications 24 group at all, such as about, like, moderating a 25 post?</p>	<p>28</p> <p>1 Newspaper Coverage." 2 Is that correct? 3 A. Yes. 4 Q. And it looks like it's from Nadine P. 5 Connor, and she forwards it to Rachel Jeris in the 6 Office of Legal Affairs, and she then forwards 7 that then to yourself and Kelly Tyrrell; is that 8 correct? 9 A. Correct. 10 Q. So it looks like Ms. Tyrrell was looped 11 in on conversation regarding Ms. Krasno and 12 potential, you know, media coverage; is that fair? 13 A. Yes. 14 Q. Okay. Now, why would Ms. Tyrrell need 15 to be looped in on something like this? 16 A. So when the suit was brought, it 17 generated publicity. And so I would say 18 university communications was in the position of 19 not only being responsible for the, you know, 20 Facebook and Instagram accounts at issue in the 21 suit, but we also worked closely with researchers 22 who are both involved in animal research 23 activities and then, as you can see, Professor 24 Connor, and those who are involved in the 25 infrastructure for the research of animal research</p>

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8 (29 to 32)

<p>29</p> <p>1 community.</p> <p>2 So when there was publicity and media</p> <p>3 attention about the suit, people were asking,</p> <p>4 particularly Kelly and Chris Barncard who you</p> <p>5 mentioned earlier, for information about what was</p> <p>6 happening.</p> <p>7 Q. Okay. So, fair to say, that when it</p> <p>8 involves something relating to animal testing or</p> <p>9 something scientific related to, for instance,</p> <p>10 crit- -- criticism of the animal testing, that</p> <p>11 Kelly Tyrrell is looped in?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Does Ms. Tyrrell have any</p> <p>14 particular training in social media moderation?</p> <p>15 A. I'm not aware that there is training</p> <p>16 generally offered in social media moderation.</p> <p>17 Q. Okay. Any -- have you ever had any</p> <p>18 discussions with her about the social media</p> <p>19 statement that appears on UW Madison's web page?</p> <p>20 A. No.</p> <p>21 Q. Okay. Let's see.</p> <p>22 MS. FARLEY: Joe, could you bring up</p> <p>23 UW0525, please.</p> <p>24 REMOTE TECHNICIAN: Please stand by.</p> <p>25 (Exhibit 53 was marked for</p>	<p>31</p> <p>1 to scroll up just a little bit more to the</p> <p>2 middle e-mail.</p> <p>3 BY MS. FARLEY:</p> <p>4 Q. And Kelly Tyrrell responds, "Thank you</p> <p>5 for sharing this, Jordana. And I'm sorry you have</p> <p>6 to deal with this kind of language and content.</p> <p>7 You might consider reporting this to Facebook for</p> <p>8 a possible violation of community standards," and</p> <p>9 then the web page, the web URL. "And barring</p> <p>10 that, I think you'd be well within reason to</p> <p>11 delete posts that advocate or suggest violence."</p> <p>12 Did I read that correctly?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. So it appears Ms. Tyrrell, in the</p> <p>15 chain, suggests a potential moderation of a</p> <p>16 comment relating to animal research. Is that</p> <p>17 correct?</p> <p>18 A. Again, I'm not on the -- the e-mail</p> <p>19 chain.</p> <p>20 Q. Is it a fair summary of Ms. Tyrell's</p> <p>21 e-mail that she's suggesting a moderation of a</p> <p>22 Facebook post?</p> <p>23 A. Yes, I guess.</p> <p>24 Q. Okay.</p> <p>25 MS. FARLEY: Now, Joe, could you pull up</p>
<p>30</p> <p>1 identification and is attached to the</p> <p>2 transcript.)</p> <p>3 Q. Okay. And this is an e-mail chain. It</p> <p>4 begins with some -- Cherise, M. Caradine, and</p> <p>5 she's at the WNPRC.</p> <p>6 MS. FARLEY: Joe, could you scroll down</p> <p>7 a little bit. It actually begins with</p> <p>8 Jordana Lenon at the WNPRC.</p> <p>9 And then if you want to scroll up,</p> <p>10 actually.</p> <p>11 Q. It appears that the WNPRC received some</p> <p>12 negative or perhaps even "inciteful" comments. Is</p> <p>13 that what this appears to be discussing?</p> <p>14 A. I'm not actually on this e-mail chain.</p> <p>15 Q. Right. And I -- I recognize that.</p> <p>16 I just wanted to confirm that this</p> <p>17 document is discussing that there's -- I guess,</p> <p>18 I'll just say: The subject line of Cherise's</p> <p>19 e-mail is regarding, quote, "not a direct threat</p> <p>20 but inciteful language on our WNPRC Facebook</p> <p>21 page."</p> <p>22 Is that accurate?</p> <p>23 A. That's what the subject line says, yes.</p> <p>24 Q. Okay.</p> <p>25 MS. FARLEY: And then, Joe, if you want</p>	<p>32</p> <p>1 UW0029, please.</p> <p>2 REMOTE TECHNICIAN: Please stand by.</p> <p>3 And, counselor, there is a 0029(1) and a</p> <p>4 0029(2).</p> <p>5 MS. FARLEY: Either one. They're both</p> <p>6 the same. Whenever you see that, it's just a</p> <p>7 duplicate.</p> <p>8 REMOTE TECHNICIAN: Thank you.</p> <p>9 MS. FARLEY: Uh-huh.</p> <p>10 (Exhibit 54 was marked for</p> <p>11 identification and is attached to the</p> <p>12 transcript.)</p> <p>13 MS. FARLEY: Do you mind zooming in on</p> <p>14 this a little bit.</p> <p>15 BY MS. FARLEY:</p> <p>16 Q. We have what's been marked as</p> <p>17 Exhibit 54. This appears to be a snippet of a</p> <p>18 Microsoft Teams discussion, I believe. And it</p> <p>19 says, "Post by John Lucas, February 18th, 2021."</p> <p>20 And you ask Meredith -- I'm assuming --</p> <p>21 is that Meredith McGlone?</p> <p>22 A. Correct.</p> <p>23 Q. Okay.</p> <p>24 -- that you'd like to be notified of</p> <p>25 anything else coming in media-wise on the ALDF</p>

<p>33</p> <p>1 suit, and you'd also like Kelly to be notified. 2 Why would you like Kelly to be notified? 3 A. So this is back to my earlier comment, 4 that both -- you know, we were named as defendants 5 in the suit, but we have continuing 6 responsibilities to the UW Madison research 7 community, and specifically those affiliated with 8 the animal program. 9 I think the idea here was to ensure 10 that -- you know, we would give short statements 11 about the suit, particularly in the media, on 12 advice of counsel, but we were reserving the 13 ability to continue to provide information in 14 support of our animal program, which is very 15 important to the institution. 16 Q. Okay. So in this instance, you wanted 17 to amplify or promote the animal program or pro 18 animal testing, I would say, in support of the UW 19 animal program; is that fair? 20 A. Yes. 21 I mean, we want to continue to provide 22 accurate information about UW Madison's animal 23 program even -- or to internal audiences or to the 24 media as it even -- again, following the advice of 25 counsel in how to respond to the media on the</p>	<p>35</p> <p>1 MS. FARLEY: Joe, could you pull up the 2 document entitled Binder 1-0021. 3 REMOTE TECHNICIAN: Counselor, I have -- 4 Counselor, I have binder 1-21. Is that the 5 one you're referring to? 6 MS. FARLEY: Yes. Thank you. 7 (Exhibit 55 was marked for 8 identification and is attached to the 9 transcript.) 10 BY MS. FARLEY: 11 Q. Okay. This has been marked as Exhibit 12 55, and it looks like an e-mail chain entitled, 13 "Re: Request for Comment Campus Reform." 14 Is that accurate? 15 A. Yes. 16 Q. Okay. And Rebecca Blank, the Chancellor 17 of the University, asks Charles Hoslet to 18 formulate a response from the Request for Comment 19 from Campus Reform. 20 And then Mr. Hoslet forwards it to you 21 and asks you to take care of it; is that correct? 22 A. Yes. 23 Q. Okay. And in response, you communicate 24 about Kelly Tyrrell and Chris Barncard. And I 25 guess, we've already discussed who Mr. Barncard</p>
<p>34</p> <p>1 suit, if that makes sense. 2 Q. Yes. 3 Is it fair to say that you wanted to 4 ensure that the discussion of the animal program 5 and the animal testing was positive? 6 A. I would say that it's our goal to always 7 ensure that discussion about the animal program is 8 truthful and accurate. 9 Q. Okay. Would you say you were supporting 10 and promoting the animal program? 11 I guess, in your words -- it says you 12 were making comments in support of the animal 13 program overall; is that correct? 14 A. Yes. 15 Q. And that's versus the viewpoint of, you 16 know, anti-animal testing, such as views held by 17 plaintiff Madeline Krasno; is that correct? 18 A. I would say, again, trying to be -- 19 provide accurate information to the public in 20 relation to anything else that's shared. 21 Q. Okay. Would you characterize your 22 statement here as being pro animal testing? 23 A. Again, I would characterize my statement 24 in support of accurate information. 25 Q. Okay. Okay.</p>	<p>36</p> <p>1 is. 2 So you kind of loop in and elevate this 3 request to two people that are assigned to 4 research matters at the University; is that 5 correct? 6 A. Yes. 7 Q. Now, at the end of the chain, 8 Ms. Tyrrell states that the statement is going out 9 by request and on behalf of the chancellor. 10 Is that accurate? 11 A. This would be how a media request is 12 handled. Whoever receives it, we would typically 13 have a statement or some information that we would 14 provide to the requester. 15 Q. Okay. And then -- 16 A. I don't -- I don't know if this was, you 17 know, specifically in the chancellor's name or 18 voice. This would just be an institutional 19 statement. 20 Q. Okay. But according to Kelly, she said 21 it was on behalf of the chancellor here? 22 A. That's what she represents. 23 Again, this would be sort of standard if 24 a media member sent a request for comment about a 25 particular issue.</p>

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10 (37 to 40)

<p>37</p> <p>1 Q. Okay. Now let's take a look at the 2 actual statement. 3 MS. FARLEY: So, Joe, if you could 4 scroll down a couple of pages. 5 Okay. And here's the actual statement. 6 Thank you for zooming in. 7 Q. Now, in this statement, it says that the 8 presence of all these valuable animals and people 9 on campus is vital to research that can help 10 improve the lives of so many. And that's in the 11 second paragraph. 12 Do you see that? 13 A. Yes. 14 Q. Okay. And, in fact, the statement on 15 behalf of the chancellor says that it would be 16 unethical to ignore the many ways animal research 17 can help people and animals. 18 Is that accurate? 19 A. Yes. 20 Q. The third paragraph. 21 Okay. Would you characterize this 22 statement as being pro animal testing? 23 A. We would believe that this is accurate 24 information about the animal program that is 25 conducted at the University. I guess, you know,</p>	<p>39</p> <p>1 I'm sorry -- 0454 to 0456, but I do not have 2 0455. 3 MS. FARLEY: Oh, okay. I believe -- 4 let's try that 0454, and I believe that 5 should contain 455. 6 No. This is not actually the document. 7 Do you mind if I chat you the document? 8 REMOTE TECHNICIAN: Yes. Yes, ma'am. 9 That's totally fine. 10 MS. FARLEY: Okay. 11 REMOTE TECHNICIAN: You can send it 12 directly to me via chat. 13 MS. FARLEY: Okay. It should be in the 14 chat. I think this is the one. 15 REMOTE TECHNICIAN: Please stand by. 16 (Exhibit 56 was marked for 17 identification and is attached to the 18 transcript.) 19 MS. FARLEY: Okay. Yes, this is 20 correct. Thank you very much. 21 REMOTE TECHNICIAN: Uh-huh. 22 BY MS. FARLEY: 23 Q. Okay. So what we have here, it looks 24 like a screenshot of a -- and I'll note for the 25 record this has been marked Exhibit 56.</p>
<p>38</p> <p>1 accurate, and it would support the continued use 2 of animal model at UW Madison, yes. 3 Q. Okay. So is it -- it's fair to say that 4 based on this e-mail exchange and, you know, the 5 process of coming up with this statement, that 6 Ms. Tyrrell and Chris Barncard, from the research 7 arm of things, assists you in providing 8 information to respond to, for instance, critiques 9 of the animal program; is that accurate? 10 A. Yes. 11 Q. Okay. And is it fair to say that their 12 job is to support, provide a statement or 13 communications on behalf of the university that 14 support the university's animal testing program? 15 A. Yes. 16 Q. Okay. 17 MS. FARLEY: Joe, could you please pull 18 up UW0039, please. 19 REMOTE TECHNICIAN: Please stand by. 20 MS. FARLEY: Actually, scratch that. 21 Could we go to UW0455. Apologies. 22 REMOTE TECHNICIAN: That was 0455? 23 MS. FARLEY: Yes. 24 REMOTE TECHNICIAN: Okay. Stand by. 25 Counselor, I have 054 and then to 05 --</p>	<p>40</p> <p>1 We have a screenshot of a Microsoft 2 Teams chat and there's 11 participants, it looks 3 like, but on the screen you can see comments from 4 Mike Klein, yourself, and Nate Moll; is that 5 correct? 6 A. Yes. 7 Q. Okay. Now, you mentioned that you once 8 started a conversation with some of the pro badger 9 people in the UK, and it's incredibly intense, 10 political issue that involves animal rights. And 11 then you use an emoji that's kind of a grimace; is 12 that correct? 13 A. Yes. 14 Q. Why did the mention of animal rights 15 cause you to grimace and use that emoji? 16 A. Yeah. 17 What I was describing was an instance 18 from several years ago when I would have operated 19 the institutional Twitter account, and I believe 20 there was an issue in the UK that involved what I 21 believe was described at that point as a badger 22 cull, which I think was essentially -- and I'm -- 23 I don't recall all these details, but sort of a 24 widespread kind of herding of -- of badgers in 25 England because of a disease that they carried.</p>

<p>41</p> <p>1 And I remember engaging in a conversation with 2 someone who was a -- a person who is a badger 3 supporter in England which, at the time, I didn't 4 understand or know very much about the issue. 5 UW Madison -- obviously, its mascot is 6 badger. And so, you know, this would have been 7 several years ago. But we engaged in a social 8 media direct message exchange that explained what 9 their situation was. 10 But as I mentioned, it -- it's, 11 obviously, extremely political in England and 12 extremely intense. 13 And I remember after, you know, just 14 asking a question or two, getting dozens of direct 15 messages from the -- the person that I was 16 corresponding with. 17 Q. Okay. So based on this, would you say 18 that animal -- animal rights are -- you know, in 19 this instance, animal badger killing, is a 20 political issue, as you state here? 21 A. This specific instance in the UK over 22 this particular badger cull, yes, it was a -- a 23 political issue there. 24 Q. Would you say that animal testing is a 25 political issue or a topic of public concern?</p>	<p>43</p> <p>1 "cleared out"? 2 A. I -- I don't know in this instance. 3 Q. Could it perhaps refer to some sort of 4 moderation? 5 A. Best to ask Mike. I wouldn't want to 6 speculate. 7 Q. Okay. And in this instance, it looks 8 like Chris Barncard was involved in moderating 9 social media on behalf of the university; is that 10 accurate? 11 A. That appears to be what the -- the chat 12 would suggest, yes. 13 Q. Okay. And again, he's in the Research 14 division of the Department of Communications? 15 A. Correct. 16 Q. Okay. Do you know if those messages 17 were targeted for moderation because they were 18 about the topic of animal rights? 19 A. I -- I don't know what messages we're -- 20 we're referring to here. No. 21 Q. Okay. Okay. 22 It seems like Mike Klein here is saying, 23 "I haven't dived into our direct messages in a 24 week, but I see the animal rights folks haven't 25 let up a bit."</p>
<p>42</p> <p>1 A. Yes. 2 Q. Okay. Does the topic of animal rights 3 make you uncomfortable or do you have a negative 4 view of it? 5 A. No, I don't -- I do not personally. 6 Q. Do you have any personal beliefs 7 about -- or opinions about the testing at -- on 8 animals at UW institutions or elsewhere? 9 A. I am generally supportive of UW 10 Madison's animal program because, you know, I 11 understand the information that we share to the 12 public as being accurate and true. 13 Q. Okay. So is it fair to say that you're 14 pro animal testing? 15 A. I guess that's fair. 16 Q. Okay. And UW Madison, it's fair to say, 17 is a pro animal testing institution; is that also 18 correct? 19 A. I think that's fair, yes. 20 Q. Okay. And back to the document itself. 21 In Exhibit 56, it looks like towards the end of 22 the chat, Mike Klein says that, quote, "Chris 23 Barncard cleaned [sic] out those animal rights 24 messages for us." 25 If you know, what did Mike mean by</p>	<p>44</p> <p>1 And Chris Barncard -- and then he also 2 then states, "Chris Barncard cleared out those 3 animal rights messages for us." 4 So, fair to say that the moderation was 5 directed at animal rights comments? 6 A. I -- again, best to ask Mike. 7 Q. Okay. 8 MS. FARLEY: Joe, could you go ahead and 9 pull up 0 -- UW002, please. 10 (Exhibit 57 was marked for 11 identification and is attached to the 12 transcript.) 13 Q. Okay. This document has been marked as 14 Exhibit 57. And this appears to be a screenshot 15 of the page settings for Facebook. And is this 16 for the UW Madison account, presumably, if you 17 know? 18 A. I'm having kind of a hard time seeing 19 it. If it can be magnified. 20 REMOTE TECHNICIAN: Which area of the 21 document would you like magnified? 22 THE WITNESS: The -- sort of the middle. 23 A. Yeah. So to your question, yes, this 24 looks like these are account settings from the 25 UW Madison Facebook page.</p>

<p>45</p> <p>1 Q. Okay. Now, for instance, is this a -- a</p> <p>2 list of topics that UW Madison automatically</p> <p>3 moderates?</p> <p>4 For instance, you know, it says, "Hash</p> <p>5 tag Fire Chief Roman, Biden, evers, Walker, Trump,</p> <p>6 Donald Trump, Jr., animal testing, testing on</p> <p>7 animals, animal research," et cetera.</p> <p>8 A. So it's my memory of this area that</p> <p>9 users would frequently -- in support of different</p> <p>10 causes or topics, would essentially spam the page</p> <p>11 with such a high number of comments on certain</p> <p>12 topics that it would essentially prevent other</p> <p>13 users from -- you know, on-topic posts, from</p> <p>14 asking questions or engaging otherwise with the</p> <p>15 university.</p> <p>16 Q. Okay. But are these topics that are</p> <p>17 automatically moderated as off limits, for</p> <p>18 example?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Would you agree that these</p> <p>21 automatic moderations prevent someone from</p> <p>22 commenting on these topics?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Can you explain to me how auto</p> <p>25 moderation works, in your own words?</p>	<p>47</p> <p>1 were on topic if they used any of these words?</p> <p>2 A. I believe so, yes.</p> <p>3 Q. Okay. So practically speaking, how can</p> <p>4 people express their views on animal testing if</p> <p>5 the words "animal testing" are automatically</p> <p>6 blocked?</p> <p>7 A. I -- yeah, I don't really have an</p> <p>8 answer.</p> <p>9 Q. Is it fair to say that they could not</p> <p>10 express their views on animal testing if the words</p> <p>11 are automatically blocked?</p> <p>12 A. Again, I defer to sort of Nate on how</p> <p>13 the auto moderation would work.</p> <p>14 Q. Do you think that this list of auto</p> <p>15 moderation words gives people much room to</p> <p>16 advocate their views on particular topics, such as</p> <p>17 primates or animal testing when "primates,"</p> <p>18 "experimenting," "animal testing," are all</p> <p>19 automatically blocked?</p> <p>20 A. I think people have many different</p> <p>21 routes to express their views on these topics with</p> <p>22 the institution.</p> <p>23 Q. Are you referring to non-social media</p> <p>24 ways to express their views?</p> <p>25 A. I mean, I -- I think both through social</p>
<p>46</p> <p>1 A. I am not an expert in auto moderation,</p> <p>2 no.</p> <p>3 Q. Okay. Okay.</p> <p>4 Would that be something that is more</p> <p>5 appropriate for Nate Moll?</p> <p>6 A. I -- yeah, I would defer to Nate on --</p> <p>7 on how those specific processes work.</p> <p>8 Q. Okay. Now, who came up with the topics</p> <p>9 that are listed -- or the content that's listed</p> <p>10 here?</p> <p>11 A. I don't specifically recall how this</p> <p>12 list was built.</p> <p>13 Q. Is it possible it was left up to Nate</p> <p>14 Moll's discretion on handling the moderation for</p> <p>15 the university?</p> <p>16 A. My belief is probably that these were</p> <p>17 topics that were off topic to post but were</p> <p>18 frequently essentially spamming the page with some</p> <p>19 frequency, in an effort -- so you can see some of</p> <p>20 the different sites or petitions that were being</p> <p>21 shared, to essentially allow us to, you know,</p> <p>22 continue normal use of the page when these were</p> <p>23 being spread on top of it.</p> <p>24 Q. Okay. So practically speaking, would</p> <p>25 these auto moderations also block comments that</p>	<p>48</p> <p>1 media and non-social media routes.</p> <p>2 Q. If the words "animal testing" or</p> <p>3 "testing on animals" are blocked, how could a</p> <p>4 particular user post a comment on UW's site, even</p> <p>5 if it was on topic, for example?</p> <p>6 A. Again, I would defer all the auto</p> <p>7 moderation specifics to Nate.</p> <p>8 Q. Is it your understanding that auto</p> <p>9 moderation prevents these words from appearing in</p> <p>10 a particular post?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. I want to switch gears a little</p> <p>13 bit and talk about your training.</p> <p>14 MS. FARLEY: We can remove the exhibit.</p> <p>15 Q. What relevant training have you received</p> <p>16 about social media, specifically?</p> <p>17 A. I'm not really aware that there is a lot</p> <p>18 of training offered for social media.</p> <p>19 Q. Okay. And when you say "a lot of," is</p> <p>20 there any?</p> <p>21 A. I have not received formal training in</p> <p>22 social media.</p> <p>23 Q. Okay. Have you received any formal</p> <p>24 training in the First Amendment?</p> <p>25 A. Not that I can recall.</p>

<p>49</p> <p>1 Q. Okay. I'd like to move on to the social 2 media policies or -- I shouldn't say "policies" -- 3 statement, the university's official statement. 4 MS. FARLEY: If, Joe, you could pull up 5 UW001, please. 6 REMOTE TECHNICIAN: Please stand by. 7 (Exhibit 58 was marked for 8 identification and is attached to the 9 transcript.) 10 MS. FARLEY: Thank you. 11 BY MS. FARLEY: 12 Q. And this document has been marked 13 Exhibit 58. So what you see in front of you 14 appears to be a screenshot of the university's 15 social media statement. 16 Is that accurate? 17 A. Correct. 18 Q. Okay. Are you familiar with this 19 statement? 20 A. Yes. 21 Q. Okay. Would you say that it accounts 22 for the university's official policy on social 23 media? 24 A. The university doesn't have what we 25 would consider an official policy on social media.</p>	<p>51</p> <p>1 guidance that we -- we used for content 2 moderation. 3 Q. Okay. And when you say "until 4 recently," are you referring to a memo issued by 5 the Office of Legal Counsel or Legal Affairs? 6 A. Correct. 7 Q. Okay. Okay. 8 Do you believe that this statement 9 provides adequate notice to the public of what -- 10 which comments may or may not be permissible or 11 deleted? 12 A. I worked with -- we all worked with our 13 Office of Legal Affairs to create this statement. 14 Q. Okay. And would you agree that it 15 allows UW Madison to remove, quote, "any content 16 for any reason"? 17 A. Correct. 18 Q. Okay. Now, did you ever provide a copy 19 of this statement to those that you supervise? 20 A. I don't specifically recall training or 21 onboarding with Nate or Mike, but I believe we 22 would have discussed this approach before they 23 engaged in moderation. 24 Q. Now, when you say "discussed this 25 approach," can you kind of describe for me what</p>
<p>50</p> <p>1 The university has, like, a guiding statement on 2 social media, which is what you're -- you're 3 referencing. 4 Q. Okay. Do you know why there is no 5 policy? 6 A. In my time sort of overseeing social 7 media, we've always essentially put focus into 8 creating content, sharing content, building a 9 social media community, but policy development is 10 complex and time consuming and rather than go 11 through, like, a -- a lengthy process that was 12 essentially kind of overwhelming to the small 13 staff that we had in place, we worked with our 14 legal office to create a -- a guiding statement. 15 Q. Okay. And is the guiding statement what 16 you are referring to? 17 Is that on the screen here as 18 Exhibit 58? 19 A. Yes. 20 Q. Okay. And is this how you -- is this 21 what you use or is this what your staff uses, I 22 should say, to ensure, when moderating comments, 23 that no persons or comments are singled out for 24 moderation based on a particular viewpoint? 25 A. Until recently, this would have been the</p>	<p>52</p> <p>1 you mean by that? 2 A. I mean, we would have discussed this 3 statement as they moved into roles that oversaw 4 social media. 5 Q. Okay. Can you recall any specific 6 conversations about this? 7 A. I mean, just that we would have 8 discussed, you know, the social media statement 9 and the approach to content moderation as part of 10 their onboarding as employees in social media. 11 Q. Okay. Have there been any revisions to 12 this statement since you've been with the 13 university? 14 A. There is the additional interim guidance 15 from the Office of Legal Affairs. That would have 16 come across, I believe, in the last year. 17 Q. Does that supersede the social media 18 statement? 19 A. That would be the -- the practice of our 20 office, to follow guidance from our Office of 21 Legal Affairs. 22 Q. Okay. In lieu of following the social 23 media statement or would you follow both? 24 A. I mean, I -- again, we would sort of 25 defer to interim guidance that we received.</p>

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14 (53 to 56)

<p>53</p> <p>1 Q. Okay. Okay. To your knowledge, has the 2 university ever considered revising this 3 statement? 4 A. I don't recall. 5 Q. What about adding to it or replacing it? 6 A. I -- I don't have a recollection of 7 that, no. 8 Q. And just switching gears a little bit. 9 Are there university employees that are 10 dedicated to reviewing the content of social media 11 posts? Like, for instance, Nick Heynen. I think 12 his title is social media and website specialist. 13 A. Because of the -- the wide range of 14 demands on Nate's time, we started a group chat of 15 others who had posting responsibilities or 16 otherwise had some expertise in social media. 17 They would generally consult together on different 18 posts and strategies for where we would share 19 content. 20 Q. Okay. Would you say Mr. Heynen was 21 response -- one of those persons responsible for 22 looking at the content of social media postings or 23 social media comments? 24 A. I would say that he was a participant in 25 a group chat. He was not, and is not, a</p>	<p>55</p> <p>1 A. Not that I recall. 2 Q. Did anyone ever ask you to clarify what 3 any part of the statement meant? 4 A. Not that I recall. 5 Q. Okay. 6 MS. FARLEY: You guys want to take a 7 quick 10-minute bathroom break and we can go 8 back on the record at 11:22? 9 THE WITNESS: Sure. 10 MS. LODAHL: That sounds good. 11 MS. FARLEY: Okay. Great. 12 THE VIDEOGRAPHER: We're going off the 13 record at 11:12 a.m. Central Time. 14 (Recess in proceedings.) 15 THE VIDEOGRAPHER: We're going back on 16 the record at 11:22 a.m. Central Time. 17 MS. FARLEY: Thank you. 18 Welcome back, Mr. Lucas. 19 Joe, if you could go ahead and pull up 20 UW0076, please. 21 REMOTE TECHNICIAN: Okay. 22 (Exhibit 59 was marked for 23 identification and is attached to the 24 transcript.) 25 MS. FARLEY: Okay. Thank you.</p>
<p>54</p> <p>1 university communications employee. So he -- he 2 participated, I think, in those discussions. It 3 wouldn't have been his formal job duty. 4 Q. Okay. What is Mr. Heynen's department? 5 A. I believe he works in the Division of 6 Diversity. 7 Q. Okay. Okay. 8 Now, would you say -- is Nate Moll 9 responsible for reviewing the content of social 10 media comments on the university's institutional 11 web pages? 12 A. Yes. 13 Q. Okay. Now, in this social media 14 statement, it says that the university can remove 15 speech that is injurious. What does that mean to 16 you, if you know? 17 A. I would defer to -- to Nate and how he 18 specifically applied that term. 19 Q. So it's more up to his discretion? 20 A. Again, I -- I don't think I've 21 specifically discussed the word "injurious" with 22 him. 23 Q. Did you ever ask anyone to clarify 24 anything about the statement for you or what any 25 part of the statement meant?</p>	<p>56</p> <p>1 BY MS. FARLEY: 2 Q. We see here what has been marked as 3 Exhibit 59. It's entitled -- it's a memo, and it 4 is regarding interim social media moderation 5 guidance. 6 Is that accurate? 7 A. Correct. 8 Q. Okay. And I believe this is what you 9 were referencing a little bit earlier to when you 10 were talking about the -- when we were in the 11 context of discussions regarding the social media 12 statement; is that accurate? 13 A. That's accurate, yes. 14 Q. Okay. Now, we -- this was addressed to 15 you and Charles Hoslet. 16 Are you familiar with this statement? 17 A. Yes. 18 Q. Okay. Now, it's entitled "Interim 19 Social Media Moderation Guidance." 20 Is there permanent social media 21 moderation guidance that's going to be 22 forthcoming? 23 A. It's -- I think a plan in the future 24 to -- to create permanent social media guidance, 25 yes.</p>

<p>57</p> <p>1 Q. And would that be a policy of some sort 2 or would it be more along the lines of another 3 memo? 4 A. It hasn't been formulated yet, so I 5 can't answer that specifically. 6 Q. Okay. Okay. 7 So as with the social media statement, 8 in conjunction with the social media statement and 9 this interim social media moderation guidance, do 10 you believe that employees have enough assistance 11 in determining what is constitutionally 12 permissible in terms of social media moderation of 13 postings by the public? 14 A. I believe this guidance is -- is helpful 15 for people to both accomplish their function and 16 also observe the First Amendment. 17 Q. Okay. So you believe it's -- it's 18 adequate to ensure protection of the public's 19 First Amendment rights? 20 A. Yes. 21 Q. Now, do you recall why you received this 22 memo? 23 A. Not specifically. 24 I know, you know, this topic has, 25 obviously, been one that's been in the air, you</p>	<p>59</p> <p>1 Q. And who was that? 2 A. Nate and Mike. 3 Q. Okay. Do you recall having any 4 discussions with them about it? 5 A. Yes. 6 Q. And what were the nature of those 7 discussions? 8 A. I think it centered around the -- sort 9 of the locus of the -- the guidance on topic and 10 off topic. 11 Q. Okay. Okay. 12 And were they asking for clarification 13 or what was -- what was discussed? 14 A. I think simply sharing the document 15 and -- and talking about the "on topic" versus 16 "off topic" approach to content moderation. 17 Q. Okay. Was that something that was new 18 to Nate or Mike? 19 A. I mean, obviously, we had applied -- 20 they had applied the criteria that was in the 21 social media statement. I think this gave a -- a 22 rule of thumb that was easy to -- to apply. 23 Q. Okay. Has this guideline undergone any 24 revisions, to your knowledge? 25 A. Yes, I believe there is an additional</p>
<p>58</p> <p>1 know, since the -- the filing of the suit; and, 2 you know, I believe there had been additional 3 requests that had come from either our office or 4 from other campus accounts to the office of legal 5 affairs for additional guidance. 6 Q. Okay. Okay. 7 A. I did not specifically make a request 8 for it, I believe, but I believe they were 9 responsive to what they -- they had been 10 receiving. 11 Q. Okay. Okay. 12 So, perhaps, the social media statement 13 wasn't quite broad enough to cover some of the 14 situations they were encountering in particular 15 moderation instances? 16 A. I think that's your own conjecture. 17 Q. You had mentioned there had been 18 requests for additional guidance. Is that a fair 19 statement of your testimony? 20 A. I believe the Office of Legal Affairs 21 received questions, yes. 22 Q. Okay. Okay. 23 Now, did you provide a copy of this 24 guideline to those over whom you supervised? 25 A. Yes.</p>	<p>60</p> <p>1 revision that was shared from the Office of Legal 2 Affairs within just the last few months. And I 3 believe it specifically dealt with blocking users 4 on Twitter, if I recall. 5 Q. Okay. Okay. 6 MS. FARLEY: Counsel, do you know if 7 that was produced in this litigation? I 8 don't recall reviewing such a document. 9 MS. LODAHL: I don't recall either. I 10 suppose if it's related to -- I don't -- 11 I'm -- I don't believe it has been produced. 12 I'd have to take a look at this document 13 that John is referencing to see if it's 14 responsive to any of your requests. 15 MS. FARLEY: Okay. Would you mind doing 16 that at -- whenever you get a chance? 17 MS. LODAHL: You bet. 18 MS. FARLEY: Okay. Great. Thank you. 19 BY MS. FARLEY: 20 Q. Were you consulted or otherwise -- yeah, 21 I should just say consulted, in the creation of 22 this guidance? 23 A. No. 24 Q. Okay. Now, this is entitled "Guidance." 25 Is -- to your knowledge, is compliance</p>

<p>61</p> <p>1 mandatory?</p> <p>2 A. We would follow guidance from the Office</p> <p>3 of Legal Affairs; but, again, it's guidance, and</p> <p>4 it isn't -- it hasn't gone through sort of a</p> <p>5 formal policy review, which would be a more formal</p> <p>6 kind of statement or document.</p> <p>7 Q. Okay. And when this guideline refers</p> <p>8 to, quote, "social media managers," who is that</p> <p>9 referring to?</p> <p>10 A. In -- my most direct view would be the</p> <p>11 direct reports that I have who oversee social</p> <p>12 media accounts for UW Madison.</p> <p>13 Q. Okay. So primarily Mike and Nate, would</p> <p>14 that be --</p> <p>15 A. Yes.</p> <p>16 Q. Could it also be referring to managers</p> <p>17 of, like, the page for the Department of History,</p> <p>18 for example, or other department pages?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Now, the guideline indicates that</p> <p>21 the purpose of each media page is, quote, "to</p> <p>22 discuss information and developments related to a</p> <p>23 specific department, lab, organization, and</p> <p>24 et cetera."</p> <p>25 Is that an accurate statement of what</p>	<p>63</p> <p>1 Q. Okay. So it's not -- is compliance</p> <p>2 then -- it's not mandatory that the post be</p> <p>3 removed, but it's at the discretion of maybe the</p> <p>4 individual media -- social media moderator?</p> <p>5 A. That's correct.</p> <p>6 Q. Okay. Now, either before or after this</p> <p>7 guidance was issued, have you ever contacted</p> <p>8 anyone in the Office of Legal Affairs to discuss a</p> <p>9 specific social media post?</p> <p>10 A. I have not.</p> <p>11 Q. Have you ever contacted anyone else,</p> <p>12 like Charles Hoslet, to discuss a specific social</p> <p>13 media comment?</p> <p>14 A. No.</p> <p>15 Q. Okay. To your knowledge, has anyone you</p> <p>16 supervised ever contacted the Office of Legal</p> <p>17 Affairs regarding a specific social media comment?</p> <p>18 A. Again, better for -- for Nate and Mike</p> <p>19 to -- to answer that question directly.</p> <p>20 Q. To your knowledge, are you aware that</p> <p>21 they have or have not?</p> <p>22 A. I -- we've sought advice from the Office</p> <p>23 of Legal Affairs on, like, a wide range of -- of</p> <p>24 different questions, so it's -- yes, it's entirely</p> <p>25 possible that we -- we might have sought guidance</p>
<p>62</p> <p>1 the document says?</p> <p>2 A. Yes.</p> <p>3 Q. So if a post does not discuss</p> <p>4 information or developments related to a specific</p> <p>5 department, lab, or organization, is it your</p> <p>6 understanding that the post must be removed?</p> <p>7 A. I'm sorry. I don't understand your</p> <p>8 question.</p> <p>9 Q. Sure. Let me rephrase it.</p> <p>10 So each page exists for a designated</p> <p>11 purpose, according to this policy, and it's to</p> <p>12 discuss information related to that department or</p> <p>13 organization or lab.</p> <p>14 Is it your understanding that if the</p> <p>15 post or -- I'm sorry, I should use the word</p> <p>16 "comment."</p> <p>17 If the comment that is made by a -- for</p> <p>18 instance, a member of the public does not relate</p> <p>19 to that purpose, is it your understanding that the</p> <p>20 comment must be removed?</p> <p>21 A. I see.</p> <p>22 I see the second line as saying, social</p> <p>23 media managers may remove posts --</p> <p>24 Q. Okay.</p> <p>25 A. -- or comments.</p>	<p>64</p> <p>1 from them on this as well.</p> <p>2 Q. Okay. Now, what does -- the guideline</p> <p>3 here, or the guidance here references viewpoint.</p> <p>4 And what does that mean to you in this context?</p> <p>5 A. I'm sorry. Can you point to the</p> <p>6 specific paragraph?</p> <p>7 Q. Yeah.</p> <p>8 MS. FARLEY: Maybe we need to scroll</p> <p>9 down a little bit.</p> <p>10 Q. So this particular paragraph that starts</p> <p>11 with, "While social media managers may</p> <p>12 moderate..." "...they may not moderate..." and</p> <p>13 "...based on the viewpoint it expresses."</p> <p>14 What does the word "viewpoint" in that</p> <p>15 context mean to you?</p> <p>16 A. Yes.</p> <p>17 I -- I think it means whether or not we</p> <p>18 would specifically agree with the point of view</p> <p>19 being expressed by the -- the commenter.</p> <p>20 Q. Okay. Okay.</p> <p>21 And in this guideline, it refers to</p> <p>22 removing social media posts and hiding social</p> <p>23 media posts.</p> <p>24 MS. FARLEY: I don't think it's visible</p> <p>25 on the screen here. Maybe we can zoom out a</p>

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17 (65 to 68)

<p>65</p> <p>1 little bit.</p> <p>2 REMOTE TECHNICIAN: I'm sorry,</p> <p>3 Counselor. Is there a location that you</p> <p>4 would like me to zoom in on?</p> <p>5 MS. FARLEY: I'm looking for where it's</p> <p>6 talking about removing or hiding social media</p> <p>7 posts. And it says -- I think it's the</p> <p>8 paragraph that starts -- the fourth paragraph</p> <p>9 down, "While social media managers may</p> <p>10 moderate a post because it is off topic..."</p> <p>11 Thank you.</p> <p>12 BY MS. FARLEY:</p> <p>13 Q. This paragraph discusses the fact that a</p> <p>14 social media manager may hide a post saying</p> <p>15 "Taylor Swift is the B0mB," but cannot hide a post</p> <p>16 that states, "Taylor Swift agrees that all</p> <p>17 universities should stop torturing animals and</p> <p>18 [sic] using them for research."</p> <p>19 And it also -- you know, there's a</p> <p>20 difference between hiding and removing a post.</p> <p>21 And how is that done, in your experience?</p> <p>22 What is the difference between the two?</p> <p>23 A. I -- I am not the one pushing the button</p> <p>24 on these particular comments, so I would defer to</p> <p>25 Nate in terms of how that's -- that's actually</p>	<p>67</p> <p>1 So in terms of auto moderation -- so</p> <p>2 you -- you basically said it hasn't changed after</p> <p>3 the issuance of the guideline. Do you know</p> <p>4 whether any new terms have been added to the auto</p> <p>5 moderation feature?</p> <p>6 A. I don't know.</p> <p>7 Q. Okay. Now, the second sentence in the</p> <p>8 auto moderation sentence says, "If social media</p> <p>9 managers are using auto moderation tools to filter</p> <p>10 content other than profanity, please have them</p> <p>11 contact Rachel Jeris or Craig Fischer in OLA."</p> <p>12 Is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. Would you agree that the -- Nate Moll</p> <p>15 and the university's settings are auto moderating</p> <p>16 content other than just profanity?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know whether Nate Moll or Mike</p> <p>19 Klein sought guidance from Rachel Jeris or Craig</p> <p>20 Fischer in OLA?</p> <p>21 A. We're typically in touch with Rachel</p> <p>22 Jeris and Craig Fischer in OLA, although I didn't</p> <p>23 specifically participate in that conversation</p> <p>24 about auto moderation with them.</p> <p>25 Q. Okay. Do you know if Nate Moll inquired</p>
<p>66</p> <p>1 managed.</p> <p>2 Q. Okay. Okay.</p> <p>3 I want to ask a little bit about auto</p> <p>4 moderation. And that is discussed --</p> <p>5 MS. FARLEY: If you wouldn't mind</p> <p>6 scrolling down, Joe, a little bit. Just to</p> <p>7 the auto moderation section. Perfect.</p> <p>8 Q. Has auto moderation changed after the</p> <p>9 issuance of this guideline?</p> <p>10 A. No. I believe auto moderation -- excuse</p> <p>11 me -- auto moderation has stayed the same.</p> <p>12 And I believe we were advised by counsel</p> <p>13 to basically not change our -- our broad practices</p> <p>14 after the -- the filing of the -- the lawsuit.</p> <p>15 MS. LODAHL: And I'm going to interject,</p> <p>16 just to caution the witness that any</p> <p>17 conversations with counsel are privileged, so</p> <p>18 please do not provide answers that include</p> <p>19 that content.</p> <p>20 THE WITNESS: Understood.</p> <p>21 BY MS. FARLEY:</p> <p>22 Q. Yes. And I will just also reiterate, I</p> <p>23 do not want to hear about any attorney-client</p> <p>24 privileged communications. So just with that</p> <p>25 understanding, as I go over this memo with you.</p>	<p>68</p> <p>1 about auto moderation?</p> <p>2 A. Best question for Nate.</p> <p>3 Q. Okay. So -- let's see.</p> <p>4 MS. FARLEY: If you could scroll up a</p> <p>5 little bit, Joe, that would be helpful. I'm</p> <p>6 sorry, scroll down. Thank you.</p> <p>7 Q. Okay. So this section is entitled</p> <p>8 "Providing additional information."</p> <p>9 And it says that, you know, "To the</p> <p>10 extent that users post on-topic content that is</p> <p>11 inaccurate, misleading or critical of UW Madison</p> <p>12 or its sub units, social media managers may</p> <p>13 respond with a reply or make a separate post."</p> <p>14 Do you know if you have ever, or Nate or</p> <p>15 Mike ever, responded to a critique of the animal</p> <p>16 testing program with a reply or a separate post?</p> <p>17 A. So I -- I would think yes, that they</p> <p>18 have probably replied in the past with accurate</p> <p>19 information to a critique of the animal program,</p> <p>20 yes.</p> <p>21 Q. Okay. So this is an option -- the</p> <p>22 university has the option of directly engaging or</p> <p>23 putting out its viewpoint on animal testing by</p> <p>24 replying to the comment or putting a separate</p> <p>25 post; is that accurate?</p>

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18 (69 to 72)

<p>69</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Do you use any third-party</p> <p>3 resources or guidelines or anything similar that</p> <p>4 guide your handling of social media in addition to</p> <p>5 the social media statement and this policy -- I'm</p> <p>6 sorry, this guidance memo?</p> <p>7 A. No.</p> <p>8 Q. Okay. And other than what we've</p> <p>9 discussed, and perhaps that document relating to</p> <p>10 Twitter that you mentioned previously, is there</p> <p>11 any other writing that in any way contributes to</p> <p>12 your moderation decisions for social media posts?</p> <p>13 A. No.</p> <p>14 Q. Okay.</p> <p>15 MS. FARLEY: Joe, if you could pull up</p> <p>16 UW0397, please.</p> <p>17 REMOTE TECHNICIAN: Please stand by.</p> <p>18 (Exhibit 60 was marked for</p> <p>19 identification and is attached to the</p> <p>20 transcript.)</p> <p>21 MS. FARLEY: Okay. This document has</p> <p>22 been marked as Exhibit 60.</p> <p>23 And Joe, if you could zoom in maybe on</p> <p>24 the top couple e-mail chains, that would be</p> <p>25 helpful. Maybe a little more. Yeah. That</p>	<p>71</p> <p>1 of the comment that was made?</p> <p>2 A. My reading of that is whether it was on</p> <p>3 topic or off topic. It's saying "unrelated to the</p> <p>4 post on which it was made."</p> <p>5 Q. Okay. Okay.</p> <p>6 Is this standard a different one that</p> <p>7 is -- than the one that's set forth in the</p> <p>8 guidance memo or the social media statement?</p> <p>9 A. I believe that this is consistent with</p> <p>10 the social media statement that we discussed</p> <p>11 earlier.</p> <p>12 Q. Okay. Okay.</p> <p>13 And applying the standards more</p> <p>14 stringently or strictly, if the content of the</p> <p>15 comment is unrelated, do you believe that's</p> <p>16 consistent with the statement and the Social Media</p> <p>17 Guidance?</p> <p>18 A. I didn't write the comment from Chris</p> <p>19 Barncard, but -- and I am not looking at the</p> <p>20 social media statement in front of me, but I</p> <p>21 believe that threatening, abusive, indecent and</p> <p>22 off topic are all included in the social media</p> <p>23 statement.</p> <p>24 Q. Okay. Okay.</p> <p>25 Now, just --</p>
<p>70</p> <p>1 would be great. It's a little small.</p> <p>2 BY MS. FARLEY:</p> <p>3 Q. Mr. Lucas, can you see that okay?</p> <p>4 A. Better now, yeah.</p> <p>5 Q. Okay. Now, this is an e-mail chain that</p> <p>6 you are not, I don't believe, copied on here, but</p> <p>7 I just wanted to ask you about it and get your</p> <p>8 take.</p> <p>9 Now, just going back, circling back to</p> <p>10 our discussion regarding Kelly Tyrrell and Chris</p> <p>11 Barncard. Does Chris Barncard directly report to</p> <p>12 you or to Ms. Tyrrell?</p> <p>13 A. To Ms. Tyrrell.</p> <p>14 Q. Okay. Okay.</p> <p>15 Now, it looks like Chris Barncard is</p> <p>16 discussing a moderation decision on Facebook and</p> <p>17 talking about, quote, "We do remove Facebook</p> <p>18 comments that are threatening, abusive and</p> <p>19 indecent -- and apply those standards more</p> <p>20 strictly if the content of a comment is unrelated</p> <p>21 to the post on which it was made."</p> <p>22 Did I read that correctly?</p> <p>23 A. Yes.</p> <p>24 Q. So according to this, the university</p> <p>25 applies a different standard based on the content</p>	<p>72</p> <p>1 MS. FARLEY: We can remove this exhibit</p> <p>2 from the screen. Thank you, Joe.</p> <p>3 BY MS. FARLEY:</p> <p>4 Q. In general, do you view that the social</p> <p>5 media statement and the Interim Social Media</p> <p>6 Moderation Guidance Memo, do you think that those</p> <p>7 are adequate to ensure that moderation is</p> <p>8 viewpoint neutral in the eyes of a layperson?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And do you view it as adequate to</p> <p>11 ensure that particular comments aren't restricted</p> <p>12 because of the content that they are expressing or</p> <p>13 the viewpoint that they express?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Have you received any -- any</p> <p>16 training on how to define off topic or how to</p> <p>17 define spam?</p> <p>18 A. Again, I'm not aware of what training</p> <p>19 is -- is available on those topics or that there</p> <p>20 is training available on those topics.</p> <p>21 Q. So do you know what standards that UW</p> <p>22 employees use to determine when something is off</p> <p>23 topic or spam?</p> <p>24 A. I would apply the -- you know, the</p> <p>25 social media statement or the -- the interim</p>

<p>73</p> <p>1 guidance policies.</p> <p>2 Q. Okay.</p> <p>3 A. Now, I am not aware of another resource</p> <p>4 that specifically defines those in, you know, a</p> <p>5 more granular way.</p> <p>6 Q. I'm sorry, I cut you off a little bit.</p> <p>7 Did you say you weren't aware of --</p> <p>8 A. I'm not aware of an additional document</p> <p>9 or resource that would -- would provide more</p> <p>10 guidance on that, no.</p> <p>11 Q. Okay. Okay.</p> <p>12 How would you personally define spam?</p> <p>13 A. I mean, off topic comments, you know,</p> <p>14 is -- is defined in the interim guidance. I don't</p> <p>15 know.</p> <p>16 I guess, I -- I have not really thought</p> <p>17 of a -- a definition of spam. It's one of these</p> <p>18 things where I think typically we evaluate on a</p> <p>19 case-by-case -- case-by-case basis and try to</p> <p>20 apply our best judgment.</p> <p>21 Q. Okay. Okay.</p> <p>22 And the guidelines themselves, they do</p> <p>23 not define spam; is that correct?</p> <p>24 A. That's correct.</p> <p>25 Q. Okay. So you mentioned case-by-case</p>	<p>75</p> <p>1 that oversees University Communications.</p> <p>2 Q. Okay. Okay.</p> <p>3 And do you know if there are any audits</p> <p>4 of how the social media statement or interim</p> <p>5 guidance are applied or enforced?</p> <p>6 A. No, I -- I don't believe that there have</p> <p>7 been audits.</p> <p>8 Q. Okay. Any compliance reviews?</p> <p>9 A. No.</p> <p>10 Q. Can you give an example of a time, for</p> <p>11 whatever reason, a social media comment by the</p> <p>12 public was improperly moderate or blocked?</p> <p>13 A. No, I personally can't, no.</p> <p>14 Q. Okay. Do you know if there have been</p> <p>15 posts that have ever been inappropriately</p> <p>16 moderated or blocked?</p> <p>17 A. I don't spend time directly on</p> <p>18 content -- you know, review of content moderation,</p> <p>19 so I would defer to Nate or Mike.</p> <p>20 Q. So it hasn't come to your attention that</p> <p>21 there's been any improper blocking?</p> <p>22 A. No.</p> <p>23 Q. Have you ever had any occasion to have</p> <p>24 to speak with or otherwise communicate with a</p> <p>25 subordinate about their moderation practices being</p>
<p>74</p> <p>1 basis and using the best judgment. It's -- it's</p> <p>2 up to the individual employee who's doing the</p> <p>3 moderation to make that decision and</p> <p>4 determination?</p> <p>5 A. I guess, just to clarify, are you asking</p> <p>6 about how to determine whether something is -- is</p> <p>7 on or off topic?</p> <p>8 Q. I was referring more to spam.</p> <p>9 A. Right.</p> <p>10 Yeah, I -- I think it would be up to</p> <p>11 the -- the employee to judge on a case-by-case</p> <p>12 basis.</p> <p>13 Q. Okay. Okay.</p> <p>14 Now, switching gears a little bit, I</p> <p>15 want to talk a little bit about compliance.</p> <p>16 Who is responsible for ensuring that the</p> <p>17 social media statement or the interim guidance is</p> <p>18 complied with?</p> <p>19 A. I mean, generally that would be my</p> <p>20 responsibility or the responsibility of University</p> <p>21 Relations as a whole.</p> <p>22 Q. Okay. And how does University Relations</p> <p>23 fit in?</p> <p>24 A. Charles Hoslet is the Vice Chancellor</p> <p>25 for University Relations. That's the umbrella</p>	<p>76</p> <p>1 inconsistent with the policy or guidance?</p> <p>2 A. No.</p> <p>3 Q. Has Nate Moll or Mike Klein -- have they</p> <p>4 ever expressed to you that they are running into</p> <p>5 any situations in terms of moderation that they</p> <p>6 don't feel comfortable handling because they don't</p> <p>7 have enough guidance?</p> <p>8 A. No.</p> <p>9 Q. Okay. And if anything, what more could</p> <p>10 University of Wisconsin-Madison do to help ensure</p> <p>11 that you and those under your supervision do not</p> <p>12 improperly moderate a social media comment?</p> <p>13 A. I think that's what has been challenging</p> <p>14 about the social accounts. Over a period of time,</p> <p>15 it's just both the -- the high degree of -- or the</p> <p>16 large number of comments that were being received</p> <p>17 and the fact that the university was in the middle</p> <p>18 of trying to communicate with the public and</p> <p>19 stakeholders about the pandemic, about, you know,</p> <p>20 racial justice issues across, you know, 2020 and</p> <p>21 2021. So the team, I'll say, has been -- is</p> <p>22 probably overwhelmed by the -- the amount of tasks</p> <p>23 that they were being asked to do. And then, you</p> <p>24 know, the number of -- the sheer number of</p> <p>25 comments that have kind of been applied onto the</p>

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Conducted on March 11, 2022

20 (77 to 80)

<p>77</p> <p>1 accounts.</p> <p>2 Q. Okay. Is it fair to say that based on</p> <p>3 the social media guidance memo we looked at</p> <p>4 earlier, that a post that's off topic does not</p> <p>5 have to be moderated, it can be moderated, but</p> <p>6 it's up to the discretion of the individual</p> <p>7 reviewing the post?</p> <p>8 A. That's correct.</p> <p>9 Q. Okay. Is it your understanding that a</p> <p>10 public comment on the university's social media</p> <p>11 pages on Instagram or Facebook could constitute</p> <p>12 constitutionally-protected speech?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And, to your knowledge, are your</p> <p>15 employees, your direct reports, aware that</p> <p>16 moderating social media posts could conceivably</p> <p>17 violate the First Amendment?</p> <p>18 A. I think my employees are aware of the</p> <p>19 First Amendment and their obligations to preserve</p> <p>20 the speech rights of people who engage with us on</p> <p>21 social media, yes.</p> <p>22 Q. Okay. Now, to -- to the best of your</p> <p>23 layperson's knowledge, what does the First</p> <p>24 Amendment prohibit you from doing in relation to</p> <p>25 moderation of social media?</p>	<p>79</p> <p>1 posted on any UW site?</p> <p>2 A. Not that I recall.</p> <p>3 Q. Before Ms. Krasno filed suit, did you</p> <p>4 ever engage in any communication or were you</p> <p>5 ever -- did you ever receive any communications</p> <p>6 about Ms. Krasno?</p> <p>7 A. Not that I recall.</p> <p>8 Q. Okay. Were you aware of Ms. Krasno</p> <p>9 before she started posting on UW's main Facebook</p> <p>10 and Instagram accounts?</p> <p>11 A. No.</p> <p>12 Q. Okay.</p> <p>13 MS. FARLEY: Joe, could you please pull</p> <p>14 up UW0657.</p> <p>15 REMOTE TECHNICIAN: Stand by.</p> <p>16 (Exhibit 61 was marked for</p> <p>17 identification and is attached to the</p> <p>18 transcript.)</p> <p>19 BY MS. FARLEY:</p> <p>20 Q. Okay. This is -- has been marked as</p> <p>21 Exhibit 61, and it's an e-mail exchange. And you</p> <p>22 are not involved in the e-mail exchange.</p> <p>23 Ms. Tyrrell and Mr. Barncard are, along with</p> <p>24 Allyson Bennett and Nadine Connor.</p> <p>25 Do you know -- oh. And -- I</p>
<p>78</p> <p>1 MS. LODAHL: I object to the extent that</p> <p>2 it calls for a legal conclusion.</p> <p>3 But the witness can answer as to his</p> <p>4 layperson's understanding.</p> <p>5 A. I mean, I -- I generally understand the</p> <p>6 First Amendment and the rights of free speech,</p> <p>7 free expression, assembly, religion, redress of</p> <p>8 grievances to the government.</p> <p>9 Q. In terms of specifically as it relates</p> <p>10 to moderation, what's your understanding of how</p> <p>11 the First Amendment impacts that?</p> <p>12 A. My understanding is that -- that posts</p> <p>13 and comments, on-topic comments would constitute,</p> <p>14 like, a limited public forum to engage with the</p> <p>15 university and post comments.</p> <p>16 Q. Okay. Now, switching gears, I want to</p> <p>17 talk a little bit about the plaintiff in this</p> <p>18 lawsuit, Ms. Madeline Krasno.</p> <p>19 Do you know who Ms. Krasno is?</p> <p>20 A. I am aware of who she is, yes.</p> <p>21 Q. And have you ever communicated directly</p> <p>22 with Ms. Krasno?</p> <p>23 A. I have not.</p> <p>24 Q. Okay. Have you ever personally made a</p> <p>25 decision to moderate anything that Ms. Krasno has</p>	<p>80</p> <p>1 apologize -- as well, Jon Levine.</p> <p>2 Do you know who Allyson, Nadine and Jon</p> <p>3 are?</p> <p>4 A. Yes.</p> <p>5 Q. Could you give a brief description of</p> <p>6 their roles?</p> <p>7 A. Sure.</p> <p>8 I believe Jon Levine directs the primate</p> <p>9 center, Nadine Connor directs the animal program</p> <p>10 and the Office of the Vice Chancellor for Research</p> <p>11 and Graduate Education, and Allyson Bennett has</p> <p>12 served as a communications lead and spokesperson</p> <p>13 in educating the public about the animal program.</p> <p>14 Q. Okay. Okay. Now, this particular</p> <p>15 e-mail chain at the top from Christopher Coe --</p> <p>16 and who is Christopher Coe?</p> <p>17 A. I don't know, actually. I believe a</p> <p>18 faculty member.</p> <p>19 Q. Okay. Mr. Coe writes an e-mail on</p> <p>20 September 16th, 2020, and it looks like this chain</p> <p>21 is regarding Madeline Krasno and her time as a</p> <p>22 student when she worked at the primate lab.</p> <p>23 Do you know what current comments --</p> <p>24 they're talking about Ms. Krasno's recent public</p> <p>25 comments in the third -- I'm sorry, in the fourth</p>

<p>81</p> <p>1 paragraph down. It says, "Her recent public 2 comments have been more general about the ethics 3 of keeping animals in captivity rather than 4 specific incidents." 5 Do you see that? 6 A. Yes. 7 Q. Do you know what recent public comments 8 this e-mail is referring to? 9 A. Not specifically, no. 10 Q. Okay. I'll represent to you that in 11 UW's sworn responses to interrogatories, number -- 12 Interrogatory No. 3, UW responded that the first 13 time it restricted Ms. Krasno's account on 14 Instagram was in late September of 2020. 15 So it looks like, to me, this particular 16 communication about Ms. Krasno occurred before 17 late September. So there was some chatter about 18 Ms. Krasno prior to the moderation decision on her 19 Instagram account. 20 Does that sound fair? 21 A. I wasn't involved in either that 22 specific moderation decision or this thread that 23 you are asking about. 24 Q. Okay. Okay. 25 Is -- so was Ms. Krasno's account -- we</p>	<p>83</p> <p>1 Q. Okay. And was there concern about her 2 tagging UW in her Instagram posts? 3 A. I would say yes, because I believe that 4 they were off-topic comments and they were 5 surfacing in front of a wide number of users. 6 Q. Okay. Do you recall what was done about 7 that in that situation? 8 A. I -- I don't recall any specific account 9 restriction discussion. 10 Q. Was -- were the posts untagged, if you 11 know? 12 A. I -- I don't know. 13 Q. Okay. As far as you're aware, does the 14 University Communications Department approve of 15 Ms. Krasno's criticism of the animal labs and UW's 16 animal testing program? 17 A. I mean, the office doesn't have an 18 opinion about Ms. Krasno or her activism. 19 Q. Are you generally familiar with 20 Ms. Krasno's posts on social media, the nature of 21 them? 22 A. Yes. 23 Q. Okay. Do you consider Ms. Krasno's 24 comments on Facebook or Instagram to be 25 inappropriate?</p>
<p>82</p> <p>1 spoke earlier in the week to Mr. Moll. I'm sure 2 you're aware that he was deposed. And he said 3 that Ms. Krasno's account was restricted on 4 Instagram based on her repeated off-topic 5 comments. 6 Did he ever discuss this with you before 7 placing Ms. Krasno's account on restricted basis? 8 A. Not that I recall. 9 Q. Has Ms. Krasno been restricted based on 10 her past comments on social media or comments in 11 the media? 12 A. Again, I -- I don't recall discussing 13 Ms. Krasno's account restrictions. 14 Q. Okay. So fair to say, you really have 15 no involvement in Ms. Krasno's particular 16 restrictions or moderating her comments? 17 A. The only -- well, the only piece that I 18 can say specific to Ms. Krasno is I -- I recall a 19 conversation about our Instagram and the way that 20 we were being tagged in her posts and how that -- 21 they were surfacing -- I believe it's called, 22 like, the Instagram grid, and they were surfacing 23 and appearing in front of a wider number of users. 24 I don't recall specifically when that 25 occurred.</p>	<p>84</p> <p>1 A. I believe there were comments that were 2 made that were off topic and where the -- both the 3 social media statement or the interim guidance 4 were applied. 5 Q. Okay. Do you consider them to be -- do 6 you consider her comments to be in any way 7 unprofessional? 8 A. What is like the -- I don't know what 9 "unprofessional" means. 10 Q. Well, let's go at it from this way: 11 What -- would you consider any of her comments to 12 have been spam? 13 A. I know that -- and, I guess, I wouldn't 14 restrict this opinion just to Ms. Krasno, but I 15 know that there were a large number of off-topic 16 posts that were -- I'm sorry -- off-topic comments 17 that were posted across a wide range of university 18 communications posts on Facebook and Instagram, 19 and that the volume of those posts, you know, 20 prevented other users from engaging with the 21 university or receiving information about our 22 programs or services. 23 Q. Has Ms. Krasno ever made a threatening 24 post on Facebook or Instagram? 25 A. I don't know.</p>

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22 (85 to 88)

<p>85</p> <p>1 Q. What about a profane post?</p> <p>2 A. I -- I don't know.</p> <p>3 Q. Okay. How about obscene?</p> <p>4 A. I -- I didn't review her individual</p> <p>5 posts or content, so I can't really speak to it.</p> <p>6 Q. Okay. What about injurious or illegal?</p> <p>7 A. Again, I don't know the answer to that.</p> <p>8 Q. Okay. In violation of intellectual</p> <p>9 property rights or privacy laws?</p> <p>10 A. I don't know.</p> <p>11 Q. And what about commercial or promotion</p> <p>12 of organizations or programs not related to or</p> <p>13 affiliated with the university?</p> <p>14 A. Again, I don't know.</p> <p>15 Q. Okay. Okay. Have you ever had an</p> <p>16 occasion to be in contact with a student newspaper</p> <p>17 group about Ms. Krasno?</p> <p>18 A. I believe our office would have</p> <p>19 responded to questions from the media, including</p> <p>20 student newspapers.</p> <p>21 Q. Okay. Could you elaborate on that a</p> <p>22 little bit?</p> <p>23 A. Again, the function of our office would</p> <p>24 be to answer questions from the media, you know,</p> <p>25 whether it's about, you know, this particular</p>	<p>87</p> <p>1 Krasno talking about how excited she is to be</p> <p>2 co-hosting a workshop with Rise for Animals.</p> <p>3 MS. FARLEY: And, Joe, if you could</p> <p>4 scroll up a little bit, please. Thank you.</p> <p>5 Q. So here, essentially Ms. Bennett is</p> <p>6 alerting the Communications department by, you</p> <p>7 know, forwarding this to Kelly Tyrrell, and you</p> <p>8 and others on the e-mail chain, that Ms. Krasno</p> <p>9 will be hosting an on-line workshop. Is that</p> <p>10 accurate?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And Kelly Tyrrell then thanks</p> <p>13 Ms. Bennett for bringing it to the group's</p> <p>14 attention; and she says she's going to copy Nate</p> <p>15 Moll, who runs a number of our institutional</p> <p>16 accounts and also helps us monitor and respond to</p> <p>17 campaigns.</p> <p>18 So what exactly does that entail, when</p> <p>19 you monitor and respond to campaigns?</p> <p>20 A. Sure.</p> <p>21 So it's been my experience over time,</p> <p>22 whether with this group or others, like PETA, that</p> <p>23 there are different campaigns or sort of</p> <p>24 particular areas of focus that they have that</p> <p>25 would manifest themselves, either from press</p>
<p>86</p> <p>1 lawsuit or whether it was about Ms. Krasno's</p> <p>2 activism.</p> <p>3 Q. Okay. Okay.</p> <p>4 MS. FARLEY: Joe, could you go ahead and</p> <p>5 pull up Exhibit UW0026, please.</p> <p>6 (Exhibit 62 was marked for</p> <p>7 identification and is attached to the</p> <p>8 transcript.)</p> <p>9 BY MS. FARLEY:</p> <p>10 Q. Okay. This document has been marked as</p> <p>11 Exhibit 62, and it's an e-mail exchange. It says,</p> <p>12 "Re: Rise for animals-UW-Madison Social Media</p> <p>13 Workshop."</p> <p>14 Is that accurate?</p> <p>15 A. Yes.</p> <p>16 Q. And the bottom chain is from Allyson</p> <p>17 Bennett and it looks like to you, among other</p> <p>18 recipients, including Chris Barncard and Kelly</p> <p>19 Tyrrell. And it's -- it says, "FWIW from AMP." I</p> <p>20 assume, that's "for what it's worth from AMP."</p> <p>21 What does AMP stand for, if you know?</p> <p>22 A. I don't know exactly what that acronym</p> <p>23 is.</p> <p>24 Q. Okay. So it seems to be that this</p> <p>25 e-mail is forwarding something put out by Madeline</p>	<p>88</p> <p>1 releases or things that they would send into the</p> <p>2 media, or, you know, in other cases, you know,</p> <p>3 campaigns that would, you know, basically try to</p> <p>4 generate a large number of users to, you know, tag</p> <p>5 our posts. In other cases, we received, you know,</p> <p>6 a large amount of unsolicited e-mail, for</p> <p>7 instance.</p> <p>8 So generally, the institution likes to</p> <p>9 be aware of these different campaigns from, you</p> <p>10 know, not only animal groups but others so,</p> <p>11 ideally, we can prepare and provide information</p> <p>12 about our activities in answer to their questions</p> <p>13 or, frequently, in an effort to clarify</p> <p>14 misinformation that's being spread about the</p> <p>15 institution.</p> <p>16 Q. Okay. Are any posts hidden simply</p> <p>17 because they are part of a campaign, for instance?</p> <p>18 A. I don't believe so, no.</p> <p>19 Q. Are you of the opinion that Ms. Bennett</p> <p>20 is an animal testing advocate, would you say?</p> <p>21 A. I'm aware that she has been active on</p> <p>22 animal testing issues, yes.</p> <p>23 Q. Okay. And I'll represent to you that</p> <p>24 her most recent Twitter post was promoting a</p> <p>25 roundtable discussion in which she was to</p>

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23 (89 to 92)

<p>89</p> <p>1 participate to, quote, "Learn how to effectively 2 advocate for your work in the face of increasing 3 threats to responsible primate research." 4 And I'll represent to you -- 5 A. I'm sorry. Just to clarify, who -- who 6 are we speaking of specifically, Ms. Krasno? 7 Q. No. Ms. Bennett, Allyson Bennett. 8 A. Oh, yes. Okay. Sorry. 9 Just to revise, Allyson Bennett is a 10 faculty member and a spokesperson for the animal 11 program at UW Madison. So, yes, she is an 12 advocate for the animal model here. 13 Q. Okay. Okay. 14 And I'll represent to you she's a 15 chief -- chief contributor to the International 16 Animal Research Advocacy Group, speaking of 17 research, and those articles used to be regularly 18 retweeted by UW-Madison Science's official Twitter 19 handle. 20 Do you ever recall anyone approaching 21 the Communications Department and requesting that 22 you more carefully scrutinize or moderate 23 Ms. Bennett's posts about animal testing? 24 A. Not that I recall, no. 25 Q. Do you agree that viewpoint neutrality</p>	<p>91</p> <p>1 little bit. 2 Q. So it says, "Jordana, thank you for 3 forwarding this on. We have had our intelligence 4 detectives monitoring activity and I have 5 forwarded this to them. I have requested 6 additional information on the person who posted. 7 Since it is the weekend, they are out of the 8 office, but I will link you in when I get 9 additional information. Mark is the expert in the 10 social media area, so I will let him discuss that 11 side of it." 12 So, basically, Ms. Lenon is telling 13 people -- and telling the police, I should say, 14 that people are being inappropriate on the WNPRC's 15 Facebook and Twitter pages relating to inciteful 16 comments, and she also had relate -- mentioned it 17 was related to PETA allegations. 18 MS. FARLEY: Joe, could you scroll down 19 a little bit. 20 Q. So is that a fair characterization of 21 the situation that's going on in this e-mail 22 exchange? 23 A. I mean, yes, with the caveat that I 24 wasn't on this thread and I'm not actually seeing 25 the -- the comments or the attachments of what</p>
<p>90</p> <p>1 is important? 2 A. Yes. 3 Q. Okay. 4 MS. FARLEY: Let's go ahead and pull up, 5 Joe, Exhibit UW0525, please. 6 REMOTE TECHNICIAN: Stand by. 7 Q. Okay. And this is what has been marked 8 as Exhibit 53. And it looks like an exchange here 9 that -- another exchange that you are not copied 10 on, but it involves Ms. Tyrrell and Chris Barncard 11 and Jordana Lenon and Cherise M. Caradine. 12 MS. FARLEY: And, Joe, if you could 13 scroll down a bit, that would be helpful. 14 Q. So it looks like Jordana Lenon is the 15 senior editor of Public Information and Outreach 16 for the WNPRC; is that right? 17 A. Yes. 18 Q. Okay. 19 MS. FARLEY: And you can zoom out again, 20 Joe. Thank you. 21 Q. So it looks like Ms. Lenon forwarded or 22 sent an e-mail to some folks, Cherise Caradine and 23 Mark Lovicott, who are both with the UW Madison 24 Police Department. 25 MS. FARLEY: Could you, Joe, scroll up a</p>	<p>92</p> <p>1 she's -- she's talking about. 2 Q. Okay. Fair enough. 3 So -- and Ms. Lenon states in the bottom 4 paragraph here, "As the manager of a public 5 university's center's social media sites, we are 6 not in the habit of selectively deleting comments 7 we don't like. Most of the likes and shares, even 8 on this issue, have been supportive ones, because 9 we posted the university's response, and it 10 generated the most likes and shares when compared 11 to animal-rights-toned comments." 12 She then states that back in 2017 13 negative comments became so frequent on an issue 14 that she felt it was harassment, and so she banned 15 the comments. And she appears to say that she may 16 do it again. 17 It sounds, to me, here that there are a 18 bunch of advocates on opposite sides of an issue 19 with one side getting unhappy and banning the 20 other side when the negativity becomes too in- -- 21 too frequent. 22 Do you agree with that? 23 A. I -- I mean, I can't really speak to the 24 practice of a -- you know, another manager in a 25 different arm of the institution.</p>

<p>93</p> <p>1 I -- I mean, the context to this 2 exchange, though -- I guess, I could say that I'm 3 personally aware of a number of instances where 4 activists have, you know, harassed and abused 5 university scientists, you know, probably both on 6 social media and in person, in real life, that 7 it's -- you know, it's caused the account manager 8 at the primate center to be in direct touch with 9 the University Police Department, you know, to 10 consult on safety and security.</p> <p>11 Q. Okay. Has your department, to your 12 knowledge, ever used the police to investigate 13 individuals who have posted or commented on the 14 UW's official social media sites?</p> <p>15 A. I -- I don't recall a specific instance, 16 but if we received what appeared to be a directed 17 threat or harassment, that -- that could be an 18 option, to -- to ensure the safety and security of 19 either scientists or -- or people at the 20 institution.</p> <p>21 Q. Okay. Do you believe the manner in 22 which Jordana handled this, you know, banning 23 comments because it was harassment, do you believe 24 that that was proper?</p> <p>25 A. Again, I don't see the posts. I don't</p>	<p>95</p> <p>1 he'd like to simplify things within the team and 2 reassign all Facebook and Instagram comment 3 moderation duties to himself. And he says they're 4 receiving this message because they're a current 5 account manager for @UWMadison.</p> <p>6 What does it mean to be a current 7 account manager?</p> <p>8 A. Yeah. So during the period of the 9 pandemic, like I referenced earlier, the 10 institution not only had the obligation to 11 provide, you know, a wide -- or a large amount of 12 public information, which we disseminated over 13 social media, but we also received, likely, you 14 know, thousands -- or tens of thousands of 15 comments, you know, related to, you know, 16 different issues in the news in 2020; the 17 pandemic, George Floyd, Jacob Blake situation in 18 Kenosha, the election. And so we -- there was a 19 point, and I don't recall specifically when this 20 was, but that, you know, we basically understood 21 that it was unmanageable for just a person or two 22 to, you know, fully deal with the things that 23 needed to be posted across our social properties 24 but also handle, you know, response, you know, 25 when there were specific questions about our</p>
<p>94</p> <p>1 really have the -- the sort of full thread to know 2 what she was reacting to.</p> <p>3 But, in general, again, the consultation 4 between the animal program and our -- our security 5 has been important for the -- the protection of 6 our -- our faculty and staff.</p> <p>7 Q. Okay. Okay.</p> <p>8 MS. FARLEY: Let's move on to UW0626, 9 please.</p> <p>10 (Exhibit 63 was marked for 11 identification and is attached to the 12 transcript.)</p> <p>13 BY MS. FARLEY:</p> <p>14 Q. Okay. This has been marked as 15 Exhibit 63. It's a -- an e-mail with the subject 16 line "Social comment management update," and it's 17 from Nate Moll.</p> <p>18 Do you see that?</p> <p>19 A. Uh-huh. Yes.</p> <p>20 Q. Okay. Now, I'll represent to you the 21 lawsuit in this case was filed on February 10th of 22 2021, and here this e-mail is dated February 11th 23 of 2021.</p> <p>24 And Nate Moll e-mails Jason Gohlke, 25 Kristina LeVan and Nick -- Nick Heynen saying that</p>	<p>96</p> <p>1 policies with regard to the pandemic or 2 moderation.</p> <p>3 And so the solution to this problem was 4 to give access to the account to the three 5 individuals on the "to" line of this e-mail 6 message, and basically expand their duties to 7 occasionally pitch in and assist Nate.</p> <p>8 And so I think what this -- this e-mail 9 is saying is that they could continue to post, but 10 in the occasions where they were being asked to do 11 any content moderation, he's directing them to no 12 longer do so.</p> <p>13 Q. Okay. Okay.</p> <p>14 And what departments are Jason Gohlke, 15 Kristina LeVan and Nick Heynen a part of?</p> <p>16 A. So Jason and Kristina are both also in 17 University Communications.</p> <p>18 As I mentioned previously, Nick Heynen 19 is a social media specialist who works in the 20 division of Diversity, Equity and Educational 21 Achievement.</p> <p>22 Q. Okay. Now, did the lawsuit raise 23 concerns within the department that employees 24 responsible for moderation had been doing it 25 inappropriately and that's why they limited --</p>

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25 (97 to 100)

<p>97</p> <p>1 wanted to limit it to Mr. Moll going forward?</p> <p>2 A. You know, I think at this point Nate was</p> <p>3 trying to, as he suggests in the message, simplify</p> <p>4 things. So those were not duties or</p> <p>5 responsibilities that anyone else would need to</p> <p>6 take on, other than himself.</p> <p>7 Q. Was the social media statement being</p> <p>8 enforced uniformly, to your knowledge?</p> <p>9 A. You know, again, we received tens of</p> <p>10 thousands of comments, you know, and many of which</p> <p>11 may have come from animal advocates. I believe on</p> <p>12 a best-effort basis, that they -- you know, they</p> <p>13 did the best they could to -- to uniformly</p> <p>14 moderate comments.</p> <p>15 Q. Okay. Okay.</p> <p>16 Now, why was Mr. Moll selected to be the</p> <p>17 one to moderate the comments, and then with you</p> <p>18 and Mike as backup support?</p> <p>19 A. I mean, his primary function is to be</p> <p>20 the -- the social media manager.</p> <p>21 Mike is responsible for a wider range of</p> <p>22 duties that involve news distribution and editing,</p> <p>23 and I have a wider range of duties beyond that to</p> <p>24 communicate on, you know, any number of topics,</p> <p>25 including with the -- the media or public.</p>	<p>99</p> <p>1 would be fine. How long would you like to</p> <p>2 take?</p> <p>3 MS. LODAHL: Well, I do want to look</p> <p>4 into the document that we discussed earlier</p> <p>5 and, you know, see if that's something that</p> <p>6 should be provided before we wrap up this</p> <p>7 deposition today.</p> <p>8 Would 45 minutes be appropriate?</p> <p>9 MS. FARLEY: Yeah.</p> <p>10 Does that work for you, Mr. Lucas?</p> <p>11 THE WITNESS: Yep.</p> <p>12 MS. FARLEY: Okay. Great.</p> <p>13 Well, why don't we round up and say 1:15</p> <p>14 Central that we resume.</p> <p>15 MS. LODAHL: Perfect.</p> <p>16 THE VIDEOGRAPHER: We're going -- are</p> <p>17 you going off now?</p> <p>18 MS. FARLEY: Yes.</p> <p>19 THE VIDEOGRAPHER: We're going off the</p> <p>20 record at 12:26 p.m. Central Time.</p> <p>21 (Luncheon Recess.)</p> <p>22 THE VIDEOGRAPHER: We're going back on</p> <p>23 the record at 1:16 p.m. Central Time.</p> <p>24 BY MS. FARLEY:</p> <p>25 Q. All right. Good afternoon, Mr. Lucas.</p>
<p>98</p> <p>1 Q. Okay. Okay.</p> <p>2 So what did it mean that you would</p> <p>3 provide, quote, "backup support" to -- to Nate?</p> <p>4 A. The three of us, I think, are -- you</p> <p>5 know, had the most experience and sort of the most</p> <p>6 knowledge on the accounts, so we opted to, you</p> <p>7 know, again, simplify and leave most of that duty</p> <p>8 with him.</p> <p>9 Q. Okay. So if he needed something, he</p> <p>10 could come to you for backup support?</p> <p>11 A. Yeah, with a -- a question or, you know,</p> <p>12 a -- or if -- you know, frequently there would be</p> <p>13 cases where -- I think, you know, nights and</p> <p>14 weekends or things where he asked Mike to -- to</p> <p>15 conduct either posting or moderation on his</p> <p>16 behalf.</p> <p>17 Q. Okay.</p> <p>18 MS. FARLEY: Joe, could we pull up</p> <p>19 UW0341, please.</p> <p>20 MS. LODAHL: Counsel, I wonder if now</p> <p>21 might be a good time to take a lunch break</p> <p>22 for the group. I'm not sure where you are at</p> <p>23 in your outline. We're getting on to 12:30</p> <p>24 here in Wisconsin.</p> <p>25 MS. FARLEY: Sure. Sure. Yeah. That</p>	<p>100</p> <p>1 Back on the record here.</p> <p>2 MS. FARLEY: Joe, could you go ahead and</p> <p>3 pull up UW0341, please.</p> <p>4 REMOTE TECHNICIAN: 3-4-1, Counselor?</p> <p>5 MS. FARLEY: Yes.</p> <p>6 REMOTE TECHNICIAN: Thank you.</p> <p>7 (Exhibit 64 was marked for</p> <p>8 identification and is attached to the</p> <p>9 transcript.)</p> <p>10 MS. FARLEY: Okay. Thank you.</p> <p>11 BY MS. FARLEY:</p> <p>12 Q. Okay. So this document has been marked</p> <p>13 as Exhibit 64. And, generally speaking, it</p> <p>14 appears that we're looking at a comment section to</p> <p>15 an Instagram post by the UW Madison.</p> <p>16 Is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Now, some of the comments are</p> <p>19 grayed-out or hidden. Is that correct as well?</p> <p>20 A. Yes.</p> <p>21 Q. I'll represent to you that the</p> <p>22 university produced these comment sections as</p> <p>23 instances of comments that were moderated by</p> <p>24 university employees.</p> <p>25 So the yellow box means that they were</p>

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26 (101 to 104)

<p>101</p> <p>1 auto-moderated by the auto moderation feature as 2 opposed to manually hidden, for example. 3 So we're looking here at -- in the 4 yellow box at a couple comments, one from 5 therealandrewpeterson and one from CFacktor. Take 6 a moment to familiarize yourself with these 7 comments. 8 Have you had a chance to read them? 9 A. Yes. 10 Q. Okay. Are those comments considered 11 off topic, in your opinion? 12 A. I -- I mean, I generally am not the one 13 making, you know, those moderation decisions, so I 14 would defer to Nate and Mike. 15 Q. But you have read the off-topic legal 16 guidance memo; is that correct? 17 A. Yes. 18 Q. So if you had to apply it here, in this 19 instance, would you say that they're off topic or 20 on topic? 21 A. I guess, if I was going to apply 22 these -- I mean, sometimes it's very difficult to 23 tell what specifically, you know, the -- the 24 posters are referencing. 25 So I guess -- I mean, I guess Andrew</p>	<p>103</p> <p>1 about earlier, it's true that if a comment is off 2 topic, it does not have to be moderated; is that 3 correct? 4 A. That's correct. 5 Q. Okay. Is the fact that a post is 6 political, is that enough to remove the -- and I 7 should say "comment," not "post." 8 Is the fact that a -- a comment is 9 political enough to have it moderated? 10 A. No. 11 Q. There has to be something more? 12 A. It would have to comply with the -- the 13 social media statement or the interim guidance 14 most recently. 15 Q. Is being critical of the university 16 enough for the UW Madison to remove the post? 17 A. No. 18 Q. And would you say that 19 therealandrewpeterson's post was critical of the 20 university? 21 A. I guess, I can't make a value judgment 22 on that. It's -- it's really kind of hard to 23 parse to my eye. Yeah. 24 Q. He's saying he's so glad that he forever 25 left the UW -- "this place," I should say, which</p>
<p>102</p> <p>1 Peterson and CFacktor are -- yeah, I -- I don't 2 have an opinion on Andrew Peterson. I guess 3 CFacktor looks like it would be on topic because 4 it's referencing a protest. 5 Q. Okay. 6 A. I have a hard time sort of understanding 7 Steve_go_wild and sort of -- that seems like 8 that's referencing a previous comment and not the 9 actual post itself. 10 Q. Yeah, we can -- I -- apparently, the 11 blue box doesn't reflect any moderation decision. 12 It's just the yellow box that would reflect that 13 the comments were moderated. 14 In terms of determining what's on or off 15 topic, he said it's sometimes kind of hard to tell 16 what the posters are getting at. 17 Is it kind of a discretionary decision 18 in terms of on or off topic? 19 A. Well, very much so in the fact that, you 20 know, again, the staff is trying to moderate, 21 like, literally hundreds or thousands of -- of 22 comments and, you know, apply consistently a 23 standard of -- of on or off topic. 24 Q. And going back to that memo, that 25 guidance memo that we had referenced and spoken</p>	<p>104</p> <p>1 presumably refers to the UW. 2 A. He's so glad that he left with a degree 3 and that he had a positive experience. I mean, I 4 guess I -- it sort of illustrates the challenge 5 that I see with -- with trying to -- you know, in 6 making these decisions. 7 Q. Right. 8 A. "I'm so glad I graduated," positive 9 statement. 10 Q. Okay. So it -- fair to say that it -- 11 lots of comments are open to interpretation? 12 A. Yes. 13 And they're evaluated on a case-by-case 14 basis. 15 Q. In general, under UW's social media 16 statement, though, the university has the right to 17 remove a post for any reason; is that correct? 18 A. Yes. 19 Q. Okay. 20 MS. FARLEY: Now, let's go to UW0313, 21 Joe, please. 22 REMOTE TECHNICIAN: Please stand by. 23 (Exhibit 65 was marked for 24 identification and is attached to the 25 transcript.)</p>

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27 (105 to 108)

<p>105</p> <p>1 BY MS. FARLEY: 2 Q. Okay. This has been marked as 3 Exhibit 65, and it appears to be an Instagram post 4 by the University of Wisconsin-Madison with a 5 couple comments beneath it. Is that accurate? 6 A. Yes. 7 THE WITNESS: Could -- could you magnify 8 the -- the grayed-out box is hard to read. 9 Thank you. 10 MS. FARLEY: And, Joe, if you could just 11 zoom out a little bit so we can see the 12 original post as well, that would be great. 13 BY MS. FARLEY: 14 Q. Okay. So it looks like the post here -- 15 well, first of all, do you recall ever reviewing 16 the specific post or comment by Ms. Krasno? 17 A. I did not. 18 Q. Okay. So Ms. -- excuse me. 19 The post is talking about Scout, a 20 7-year-old Golden Retriever, and his oncologist at 21 the University School of Veterinary Medicine, who 22 had a very rare form of canine cancer and he was 23 treated by UW. 24 And then Ms. Krasno's post says, "It is 25 really quite hypocritical the compassion shown to</p>	<p>107</p> <p>1 identification and is attached to the 2 transcript.) 3 MS. FARLEY: Okay. Thank you. 4 BY MS. FARLEY: 5 Q. Here we've got a document that's been 6 marked as Exhibit 66, and it appears to be a 7 Facebook -- a screenshot of a portion of a 8 Facebook post by UW Wisconsin-Madison and a 9 portion of the comment section as well. Is that 10 accurate? 11 A. Yes. 12 I can't actually read the comments, 13 though, at that size. 14 Q. Okay. 15 MS. FARLEY: Joe, if you could zoom in a 16 little bit. 17 Q. Before you do, though, the title of the 18 post is "COVID-19 Model Quantifies of 19 Region-Specific Social Distancing Orders." 20 MS. FARLEY: Thank you. Yeah. Now we 21 can actually zoom in on the actual grayed-out 22 portions, which are a little harder to read. 23 Q. Now, actually, I want to focus on the -- 24 so it looks like there were yellow boxes around 25 some grayed-out comments that were auto moderated</p>
<p>106</p> <p>1 this dog while thousands of animals languish in 2 laboratories at UW Madison. I really wish you 3 would acknowledge this and do something about" 4 that -- "about it." 5 Did I read that correctly? 6 A. Yes. 7 Q. Now, is Ms. Krasno's comment on topic or 8 off topic, in your opinion? 9 A. I would judge Ms. Krasno's comment here 10 to be on topic. 11 Q. Okay. And, yet, it was still hidden in 12 this instance; is that correct? 13 A. That appears correct, yes. 14 Q. So it appears that the on-topic and 15 off-topic criterium are not necessarily uniformly 16 enforced; is that accurate? 17 A. Again, I, you know, would probably point 18 to the overall scale of the endeavor and just, you 19 know, thousands of comments that are received. I 20 wouldn't expect that we would, you know, perfectly 21 apply that standard, although I know they -- they 22 try to do so in every case. 23 MS. FARLEY: Joe, let's move on to 24 UW0297, please. 25 (Exhibit 66 was marked for</p>	<p>108</p> <p>1 and then we have a long post here that was not 2 moderated, by Hani Hosain, and he asks, "Do you 3 have experience certificates equivalencies with a 4 university degree?" 5 Is that accurate? 6 A. Yes. 7 Q. In your opinion, is this post on topic 8 or off topic? 9 A. This would appear to be off topic. 10 Q. Okay. And, yet, it was not moderated? 11 A. That appears correct, yes. 12 Q. Okay. And in this instance, in fact, 13 the posting about animal testing was moderated? 14 A. Yes. 15 Q. Okay. 16 MS. FARLEY: If we could move on to 17 UW0317. 18 REMOTE TECHNICIAN: Please stand by. 19 (Exhibit 67 was marked for 20 identification and is attached to the 21 transcript.) 22 BY MS. FARLEY: 23 Q. Okay. We are looking at what has been 24 marked as Exhibit 67. And this appears to be a 25 screenshot of a Facebook post by the University of</p>

<p>109</p> <p>1 Wisconsin-Madison and a portion of the comment 2 section. Is that accurate? 3 A. Correct. 4 Q. Okay. And this particular Facebook post 5 is entitled "Badger Talks, Vaccine Arrival is 6 First Step." 7 Is that accurate? 8 A. Yes. 9 Q. Okay. And I -- I don't know if you 10 recall this specific post or having seen this 11 post. 12 A. I do not. 13 Q. Okay. And then down below, Lucky Dave 14 comments, "Can't believe the UW still practices in 15 the dark ages with coal power and styrofoam cups. 16 Much better schools out there than these 17 dinosaurs." 18 Now, would you consider that to be on 19 topic or off topic? 20 A. It would appear to be a negative 21 off-topic post. 22 Q. Okay. And I notice you specifically 23 said negative. Is that important when moderating? 24 Is that an important consideration? 25 A. No. I -- it's an off-topic post.</p>	<p>111</p> <p>1 auto moderation. 2 A. So, I mean, the -- the point that I was 3 going to make is just it's hard to know because 4 these posts are sort of living things that -- you 5 know, if and when a staff member would come 6 through and review it and do a manual moderation, 7 if somebody would then post additional afterwards. 8 I guess this case is an auto moderation 9 and it appears that, you know, Lucky Dave was not 10 moderated when he should have been. 11 Q. Okay. But again, I guess, going back to 12 the -- this interim social media guidance memo 13 that we discussed earlier, the fact that something 14 is off topic doesn't mean that it has to be 15 necessarily removed or moderated; is that fair? 16 A. That's correct. 17 Q. Okay. So the efforts of the -- of an 18 individual moderator on any given day, their best 19 efforts, do you think that constitutes best 20 efforts for the university as a whole? 21 A. I'm sorry. I don't understand your 22 question. 23 Q. It -- it seems like moderation in terms 24 of off topic versus on topic in -- for example, 25 kind of depends on the individual's whims or</p>
<p>110</p> <p>1 Q. Okay. And, yet, it was not moderated in 2 this instance. Is that accurate? 3 A. Correct. 4 Q. Okay. And, in fact, it appears that a 5 post regarding animal testing, specifically on 6 monkeys, was, in fact, moderated in this instance. 7 Is that accurate? 8 A. Yes. 9 Q. Okay. So the best efforts you were 10 talking about with respect to the university 11 trying to use its best efforts to moderate 12 whenever possible given the volume of comments, it 13 is, in reality, just kind of a discretionary 14 decision up to the individual moderator on any 15 given day; is that fair to say? 16 A. I mean, they use their -- their best 17 effort. 18 I mean, I -- I guess the one point that 19 I would make is that it's kind of impossible to 20 know, like -- I -- I guess as a point of 21 clarification, can you tell me about the gold box? 22 Is that auto moderation or is that manual 23 moderation? I'm not familiar with the color 24 codes. 25 Q. The gold -- yeah, the gold refers to</p>	<p>112</p> <p>1 specific, you know, discretion or judgment on any 2 given day. 3 A. I mean, I would argue that, you know, 4 people have a number of different tasks that they 5 perform on any sort of shift when they're working 6 on social media and that, you know, it would be 7 everyone's goal to, you know, uniformly apply the 8 standard. You know, there may be some cases 9 where, you know, people are -- are busy with other 10 activities on a particular day and, you know, 11 they -- they may not get to -- to moderation as -- 12 you know, as much as they should or could on any 13 given post or day. 14 Q. Do you think the university is trying to 15 do too much by moderating off topic versus on 16 topic? 17 A. I think the university is trying to do 18 the best it can do, and the staff are trying to do 19 the best they can do under the circumstances, 20 which -- you know, the scale of which I don't 21 think is -- is replicated here of the number of 22 comments or posts that we would have been 23 receiving, you know, in any given time period. 24 Q. Okay. Okay. 25 MS. FARLEY: Let's go to Exhibit UW0218,</p>

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29 (113 to 116)

<p>113</p> <p>1 please. 2 (Exhibit 68 was marked for 3 identification and is attached to the 4 transcript.) 5 BY MS. FARLEY: 6 Q. Okay. This document has been marked as 7 Exhibit 68. It appears to be a Facebook 8 screenshot of the University of Wisconsin- 9 Madison's Facebook page and a posting. We don't 10 see the original post here. We just see a comment 11 area, and it looks like the yellow box indicates 12 auto moderation and the gray box apparently does 13 not mean anything or nothing relevant to our 14 purposes, apparently. 15 So this particular animal rights posting 16 was allowed to remain. Is that accurate? 17 MS. LODAHL: Point of clarification, 18 Counsel. You just represented in your 19 question -- and I -- I don't know if you did 20 that on the previous question either, but you 21 said that a yellow box indicates auto 22 moderation. 23 In the updated information that we 24 provided to you about the color-coding system 25 on Facebook, the yellow or red boxes don't</p>	<p>115</p> <p>1 detail about that? 2 A. I believe he's also posted content 3 related to animal research, along with Ms. Krasno. 4 Q. Okay. And how did you first become 5 aware of Mr. Hartkopf? 6 A. I don't specifically know, but I 7 remember hearing his name mentioned, potentially 8 around the same time period, as -- as someone who 9 frequently posted. 10 Q. Okay. Okay. Was Mr. Hartkopf ever 11 banned from the -- UW's Facebook page, if you 12 know? 13 A. I don't know. 14 Q. Okay. What about UW's Instagram? 15 A. I don't know the answer to that either. 16 Q. If an individual were to be banned or to 17 be -- I think the right word is "restricted" from 18 an account, would you be notified? 19 A. So I believe those are two separate 20 terms that -- account restrictions, in my 21 understanding, are that people are able to 22 continue to post and then have their posts -- or, 23 I'm sorry, specifically approved by a moderator. 24 I assume users also can be banned, but in -- in 25 all cases, I -- I don't think I would be</p>
<p>114</p> <p>1 indicate auto versus manual. 2 MS. FARLEY: Oh, that's right. I'm 3 sorry. Versus Instagram. 4 MS. LODAHL: Right. 5 MS. FARLEY: I apologize. Yes. 6 MS. LODAHL: Yep. So -- 7 MS. FARLEY: Okay. 8 MS. LODAHL: So the post is moderated, 9 but we don't know if it is auto or manually. 10 MS. FARLEY: Okay. 11 THE WITNESS: All right. 12 MS. FARLEY: Thank you for clarifying 13 that. 14 MS. LODAHL: Sure. 15 BY MS. FARLEY: 16 Q. Did you get that, Mr. Lucas? 17 A. Yes, I understand. 18 Q. Okay. So in this situation, it -- the 19 post by Jesper Esp�re has been moderated in some 20 fashion, auto or manually, and the post by Ryan 21 Hartkopf has not. 22 Are you familiar with a Ryan Hartkopf? 23 A. I have heard his name in relation to 24 Ms. Krasno. 25 Q. Okay. Can you give a little bit more</p>	<p>116</p> <p>1 specifically notified. 2 Q. Okay. That might be up to the 3 discretion of Mr. Moll or Mr. Klein? 4 A. Correct. 5 Q. Okay. Okay. 6 Do you know if there is a list of people 7 anywhere that have been either -- what is the 8 correct term here? And not just banned, but -- 9 not moderated, but what is the term you just used? 10 A. I believe it's -- well, at least on 11 Instagram, I believe it's to have their account 12 restricted. 13 Q. Restricted. Thank you. Yes. Tip of my 14 tongue. 15 Is there a list anywhere of those 16 people, who have been restricted or banned? 17 A. No, not that I've ever seen. 18 Q. Okay. To your knowledge, has Ms. Krasno 19 ever been banned from Facebook or Instagram? 20 A. I am not aware. 21 Q. Okay. Are banned people mostly those 22 whose posts or comments express views that are, 23 for whatever reason, critical of the university? 24 A. I -- I don't think that there's a -- 25 well, first, I don't think there's a list. I've</p>

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30 (117 to 120)

<p>117</p> <p>1 never seen a list of people, and -- so I -- you 2 know, I would be hard-pressed to describe, you 3 know, people who were on something that I -- I'm 4 not aware of. 5 Q. Okay. 6 MS. FARLEY: Let's go to UW0730, please. 7 (Exhibit 69 was marked for 8 identification and is attached to the 9 transcript.) 10 MS. FARLEY: Okay. Thank you, Joe. 11 BY MS. FARLEY: 12 Q. If you could scroll all the way down -- 13 or -- first of all, this has been marked as 14 Exhibit 69. And this is an e-mail chain with the 15 title "Re: Draft statement on Facebook comments." 16 MS. FARLEY: And then, Joe, if you could 17 scroll down to the bottom, to the first 18 e-mail in the chain. 19 Q. Do you see a message from Jordana Lenon 20 at the WNPRC stating that there have been some 21 posts by Ryan Hartkopf and Madeline Krasno today 22 on their Facebook page regarding hiding comments 23 on social media? 24 Is that accurate? 25 A. Yes.</p>	<p>119</p> <p>1 proposed statement? 2 A. I do not. 3 Q. Okay. And this is another instance of 4 Ms. Tyrrell, the Director of Research 5 Communications, being involved in and addressing 6 speech critical of the animal testing program at 7 the WNPRC; is that correct? 8 A. This would be consistent with her role 9 in sharing information about the animal program, 10 yes. 11 Q. Okay. 12 MS. FARLEY: Let's go to UW0429, please. 13 (Exhibit 70 was marked for 14 identification and is attached to the 15 transcript.) 16 BY MS. FARLEY: 17 Q. This document has been marked as 18 Exhibit 70. And here it appears we have a 19 screenshot of a Microsoft Teams chat with 11 20 participants. And the participants that we can 21 see chatting here are Nick H., presumably Nick 22 Heynen; John L., I'm assuming that's you -- is 23 that accurate? 24 A. Yes. 25 Q. And Nate M., which is -- I'm assuming</p>
<p>118</p> <p>1 Q. And Ms. Lenon says that she prepared a 2 draft statement that she wanted to address about 3 these publicly-voiced concerns about our page 4 head-on and openly. 5 Ultimately -- 6 MS. FARLEY: If you scroll up a little 7 bit, Joe. 8 Q. -- Chris Barncard forwards this to Legal 9 with a copy to you and Kelly Tyrrell. 10 And then, if you scroll all the way up, 11 you'll see, you know, further communication about 12 this, assuming this proposed statement. 13 MS. FARLEY: If you could continue 14 scrolling up, Joe, please. Thank you. 15 Q. It's kind of a long chain here. 16 But ultimately, do you know -- since 17 we -- we can't see -- and we don't want to know 18 any privileged material, but do you know what the 19 outcome of Ms. Lenon's state- -- proposed 20 statement was? 21 A. I do not. 22 And clearly I was, I think off -- 23 somehow got dropped off the chain before it was -- 24 whatever issue was settled. 25 Q. Do you remember reviewing Ms. Lenon's</p>	<p>120</p> <p>1 that's Nate Moll; is that correct? 2 A. Yes. 3 Q. And here, Mr. Heynen asks you whether 13 4 posts about Betsy Schoeller over a couple of days 5 meant the poster should be banned; is that 6 correct? 7 A. Yes. 8 Q. And you then say "ban, pls," please. 9 What were your reasons for ordering the 10 ban? 11 A. I don't remember this specific instance. 12 It could have been that she was -- Betsy Schoeller 13 was posting some sort of content that may have 14 been abusive or -- yeah. I don't actually 15 remember this one. 16 Q. Okay. But you were consulted on a 17 particular banning decision in this instance; is 18 that accurate? 19 A. Yes. 20 Q. And then, further in the chain, someone 21 asks, "Are there specific things on what to ban 22 for, or is it case-by-case? I see another spam 23 comment promoting cheating for pay ('academic 24 writing services')." 25 And Mr. Moll responds, "More of a</p>

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31 (121 to 124)

<p>121</p> <p>1 case-by-case. The one you just brought up is 2 grounds for banning." 3 Is that accurate? 4 A. Yes. 5 Q. So here, this particular poster was 6 asking for guidance on banning, and he was not 7 directed to any particular guidance, but it was a 8 case-by-case determination in Mr. Moll's words. 9 Is that accurate? 10 A. Yes. 11 Q. Okay. Are there any factors that you 12 look to when determining whether to ban a 13 particular user? 14 A. Again, I'm generally not making 15 decisions about it. 16 I see that I'm on this thread, and I can 17 only imagine that there was some sort of violence 18 or abuse of content here that sort of resulted in 19 it being escalated to me. 20 Q. Okay. So there aren't really any 21 specific factors that you look for in determining 22 this? 23 A. Again, I think we just considered it on 24 a case-by-case basis. 25 Q. So how do you ensure uniformity in</p>	<p>123</p> <p>1 chat portion between yourself and Nate Moll on May 2 13th, 2021. Is that accurate? 3 A. Yes. 4 Q. And he says, "Heads up that we're 5 getting 'Free Palestine' comments on Facebook. 6 Due to their off-topic and political nature, I've 7 been hiding them." 8 You say, "Okay - Keep us updated, 9 thanks." 10 Is the fact that a topic is political in 11 nature sufficient to hide it or to remove the 12 post? 13 A. I see him citing off-topic nature. 14 Q. If -- if a topic is political in nature, 15 is that a reason to hide a post on Facebook or 16 Instagram? 17 A. Not if it's on topic. 18 Q. So what if a post was related to voting 19 and someone then post -- tried to post something 20 about pro -- vote for Donald Trump, and Trump is 21 an auto moderated word, how would they express 22 their viewpoint in that instance? 23 A. We wouldn't generally post information 24 about candidates or choices in the election. 25 Q. If a post was about get out and vote,</p>
<p>122</p> <p>1 banning across all public comments? 2 A. I think that the staff, on a best-effort 3 basis, tries to apply the policy; and if there are 4 people who are, you know, frequently or 5 egregiously in violation of the -- I'm sorry -- 6 rather, the statement or the interim guidelines, 7 that, you know, they -- they may have their 8 account restricted. 9 Q. Okay. 10 MS. FARLEY: Let's move on to UW0396, 11 please. 12 (Exhibit 71 was marked for 13 identification and is attached to the 14 transcript.) 15 MS. FARLEY: And what exhibit number is 16 this, Joe? 17 REMOTE TECHNICIAN: Please stand by. 18 It will be marked as Exhibit 71. 19 MS. FARLEY: Pardon? I didn't hear you. 20 REMOTE TECHNICIAN: I apologize. It 21 will be marked as Exhibit 71. 22 MS. FARLEY: 71. Thank you. 23 BY MS. FARLEY: 24 Q. So we're looking here at Exhibit 71, and 25 it appears to be a snippet of a Microsoft Teams</p>	<p>124</p> <p>1 here's your polling place, sign up here, register 2 to vote, and someone wanted to advocate for their 3 particular viewpoint on a candidate, would they be 4 able to do so? 5 A. I -- I have a hard time answering that 6 in a hypothetical, without seeing the post or 7 the -- the specific comment in that situation. 8 Q. You can do your best to answer the 9 question. 10 A. Yeah, I'm really sorry, I don't know how 11 I would do that without seeing the actual post in 12 question. 13 Q. It's a hypothetical. 14 A. Yeah. 15 I mean, I -- again, I would -- I think 16 you might construe a difference between, you know, 17 the actual information we would be trying to 18 provide about polling or a voter ID or voter 19 registration as different than someone advocating 20 about a specific candidate and -- you know, again, 21 because I'm trying to answer in a hypothetical -- 22 I think we might be able to see that advocacy for 23 a specific candidate as a comment on the post 24 would be off topic from information about how to 25 obtain a ballot or a voter ID.</p>

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32 (125 to 128)

<p>125</p> <p>1 Q. Okay.</p> <p>2 MS. FARLEY: Let's go to UW0449, please.</p> <p>3 (Exhibit 72 was marked for</p> <p>4 identification and is attached to the</p> <p>5 transcript.)</p> <p>6 MS. FARLEY: Okay. Thank you.</p> <p>7 BY MS. FARLEY:</p> <p>8 Q. We are looking at what has been marked</p> <p>9 as Exhibit 72. It appears to be another</p> <p>10 screenshot of Microsoft Teams chat with 11</p> <p>11 participants. And the chat includes posts by Nate</p> <p>12 Moll and then another unidentified individual. Is</p> <p>13 that accurate?</p> <p>14 A. Yes.</p> <p>15 Q. Now, one of the things Mr. Moll mentions</p> <p>16 is that today they're featuring something</p> <p>17 regarding "chimpanzee sanctuary mystery disease."</p> <p>18 Is that accurate?</p> <p>19 A. Yes.</p> <p>20 Q. US -- UW news published an article on</p> <p>21 2/10/21 titled "Mystery Disease at Sierra Leon</p> <p>22 Chimpanzee Sanctuary Linked to Bacterial</p> <p>23 Infection," and it discussed the findings of UW</p> <p>24 researchers who identified a mystery illness that</p> <p>25 killed a bunch of chimps.</p>	<p>127</p> <p>1 activities? Was it -- you know, PETA posts many</p> <p>2 different topics, many thousands of different</p> <p>3 comments on UW content.</p> <p>4 Q. If -- assume it was -- if it was about</p> <p>5 UW researchers killing chimpanzees, for example,</p> <p>6 would that be on topic?</p> <p>7 A. If it was specifically about chimpanzees</p> <p>8 and specifically on the chimpanzee sanctuary</p> <p>9 mystery disease post, I would guess that it was on</p> <p>10 topic.</p> <p>11 Q. Okay. Now, at the bottom of the chat,</p> <p>12 whoever is the social media lead that day says</p> <p>13 that the plan includes, quote, "monitor" animal --</p> <p>14 "anti-animal research comments (big thanks to Nate</p> <p>15 for covering this this morning)."</p> <p>16 Why is there a specific bullet point for</p> <p>17 monitoring anti-animal research comments here?</p> <p>18 A. I don't know. I did not post this</p> <p>19 comment.</p> <p>20 Q. Is it fair to say the University</p> <p>21 specifically pays attention to anti -- anti-animal</p> <p>22 research comments?</p> <p>23 A. To the extent that they're off topic on</p> <p>24 posts, yes.</p> <p>25 Q. But there's no special attention paid to</p>
<p>126</p> <p>1 Does that ring a bell?</p> <p>2 A. That -- I don't recall that</p> <p>3 specifically, but that does sound like, yes,</p> <p>4 content that we would publish.</p> <p>5 Q. Now, are PETA comments about UW</p> <p>6 researchers killing primates off topic in that</p> <p>7 situation?</p> <p>8 A. I guess it's hard to know specifically,</p> <p>9 like, what the PETA comment is in this case that</p> <p>10 was being referenced.</p> <p>11 Q. Okay. Mr. Moll references a wave of</p> <p>12 50-plus PETA comments on the Instagram post, and</p> <p>13 he restricted all accounts and deleted the posts.</p> <p>14 Does it sound like he performed, you</p> <p>15 know, a careful case-by-case analysis of each</p> <p>16 comment in this instance?</p> <p>17 A. I couldn't say without sort of</p> <p>18 understanding more of, you know, was it posted on</p> <p>19 the Vile (phonetic) List Associate's Award or</p> <p>20 other posts that were off topic?</p> <p>21 Q. Okay. If it was posted on the</p> <p>22 chimpanzee sanctuary mystery disease, would it be</p> <p>23 on topic?</p> <p>24 A. That's a good question. I mean, was the</p> <p>25 PETA post about cats? Was it about vegan</p>	<p>128</p> <p>1 anti-animal research postings?</p> <p>2 A. I would probably judge that comments</p> <p>3 related to animal research would be the highest</p> <p>4 traffic comment that we receive across the</p> <p>5 accounts.</p> <p>6 Q. Okay. And is that why it warranted a</p> <p>7 separate bullet point of monitoring in this</p> <p>8 instance?</p> <p>9 A. I -- I mean, I -- I could think that</p> <p>10 the -- the volume would be one factor that could</p> <p>11 explain that, yes.</p> <p>12 Q. Is it fair to say the university</p> <p>13 specifically pays attention to animal rights</p> <p>14 campaigns?</p> <p>15 A. Yes. As we discussed earlier today, I</p> <p>16 think in support of trying to provide accurate</p> <p>17 information and combat misinformation provided by</p> <p>18 certain groups, I would say that we are interested</p> <p>19 in -- I mean, comments and campaigns that would,</p> <p>20 you know, be on a wide range of topics, but I</p> <p>21 think, you know, given the -- the prevalence of</p> <p>22 anti-research or anti-animal model comments, yes.</p> <p>23 Q. You've talked a little bit today about</p> <p>24 the importance of combating, you know, inaccurate</p> <p>25 information and providing accurate information to</p>

<p>129</p> <p>1 the public about animal research.</p> <p>2 Have you done any of your own research</p> <p>3 to determine what information is or is not, in</p> <p>4 fact, accurate?</p> <p>5 A. I don't have to do my own research</p> <p>6 because we employ hundreds, if not thousands of</p> <p>7 people who do that work here for the institution.</p> <p>8 Q. But it's your job to monitor those who</p> <p>9 moderate comments, and they're making a</p> <p>10 determination whether a comment is -- is or is not</p> <p>11 accurate.</p> <p>12 So what research have they or have you</p> <p>13 done to ensure that when you're making that</p> <p>14 decision, you're not blocking accurate</p> <p>15 information?</p> <p>16 A. I'm sorry. I don't follow. Could you</p> <p>17 repeat the question?</p> <p>18 MS. FARLEY: Madam Court Reporter, could</p> <p>19 you repeat back the question.</p> <p>20 THE COURT REPORTER: Yes, ma'am, just a</p> <p>21 moment.</p> <p>22 (Record read back by Stenographer.)</p> <p>23 THE WITNESS: Thank you.</p> <p>24 A. Yes. I mean, I would expect that the</p> <p>25 staff that are, you know, posting particular</p>	<p>131</p> <p>1 MS. FARLEY: Okay. Thank you.</p> <p>2 BY MS. FARLEY:</p> <p>3 Q. We are looking at what has been marked</p> <p>4 Exhibit 73, and it is another Microsoft Teams</p> <p>5 screenshot of a chat involving 11 participants.</p> <p>6 Is that accurate?</p> <p>7 A. Yes.</p> <p>8 Q. So we see a chat here between, I believe</p> <p>9 it's Mike Klein, yourself and Nate Moll. Is that</p> <p>10 accurate?</p> <p>11 A. Yes.</p> <p>12 Q. And in this chat, you instruct Mr. Klein</p> <p>13 to ban an Andrew Clemens for posting "Shame on you</p> <p>14 WM, free the apes now," on 20 different posts.</p> <p>15 Is that accurate?</p> <p>16 A. Yes.</p> <p>17 Q. Was there a lesser-restrictive</p> <p>18 alternative to outright banning that you could</p> <p>19 have considered?</p> <p>20 A. Not aware in this particular case, no.</p> <p>21 Q. Could you have hidden his comments, for</p> <p>22 example, instead of banning him from the forum?</p> <p>23 A. Yeah. I mean, I guess that's possible</p> <p>24 in this case. I'm not a hundred percent sure how</p> <p>25 the -- the mechanics on the Facebook restriction</p>
<p>130</p> <p>1 pieces of content are sort of aware of what that</p> <p>2 content is and, you know, to the extent that, you</p> <p>3 know, there are, you know, questions that are</p> <p>4 posted about the specific content, you know,</p> <p>5 sometimes those are directly answered, and I would</p> <p>6 expect that they -- you know, they understand</p> <p>7 the -- the information that -- that's being</p> <p>8 shared.</p> <p>9 Q. Is it fair to say that Kelly Tyrrell and</p> <p>10 Chris Barnard are the ones who spearhead</p> <p>11 defending the university's animal research program</p> <p>12 against criticism from outside groups?</p> <p>13 A. They, among others, yes.</p> <p>14 Q. Okay. And who -- who would those others</p> <p>15 be, in general?</p> <p>16 A. Allyson Bennett, I think you mentioned</p> <p>17 previously Nadine Connor. You know, others who</p> <p>18 are sort of leaders on campus in the research</p> <p>19 enterprise.</p> <p>20 Q. Okay. All right.</p> <p>21 MS. FARLEY: Let's go to UW -- UW688,</p> <p>22 please.</p> <p>23 (Exhibit 73 was marked for</p> <p>24 identification and is attached to the</p> <p>25 transcript.)</p>	<p>132</p> <p>1 worked, but it's possible that there was a -- a</p> <p>2 way to hide those posts.</p> <p>3 Q. Do you have any concerns, personally,</p> <p>4 about the practice of banning a user from Facebook</p> <p>5 or Instagram?</p> <p>6 A. I mean, in what record?</p> <p>7 Q. Probably in regard to the First</p> <p>8 Amendment.</p> <p>9 A. You know, again, I would say that the</p> <p>10 team does the best that it can do on a daily basis</p> <p>11 in sort of evaluating these decisions and making</p> <p>12 them in the moment, you know, in the face of just</p> <p>13 thousands and thousands of comments that are sort</p> <p>14 of being, you know -- that are being kind of</p> <p>15 posted on a regular basis.</p> <p>16 Q. Okay.</p> <p>17 MS. FARLEY: Now, let's go to UW0716.</p> <p>18 And we're getting near the end, just --</p> <p>19 just to let people know. We can -- Lynn,</p> <p>20 should we take a break in a few minutes?</p> <p>21 Is that document ready or --</p> <p>22 MS. LODAHL: Yeah. I was just going to</p> <p>23 suggest that. That would be perfect.</p> <p>24 MS. FARLEY: Okay.</p> <p>25 MS. LODAHL: Great. I just want to be</p>

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<p>133</p> <p>1 able to send it over by e-mail.</p> <p>2 MS. FARLEY: Okay. Yeah. Let's go</p> <p>3 to -- actually, we can take a break now, if</p> <p>4 that works. And we can keep it to about ten</p> <p>5 minutes, if you guys want.</p> <p>6 MS. LODAHL: Perfect.</p> <p>7 THE WITNESS: Sure.</p> <p>8 MS. FARLEY: Okay. Thanks.</p> <p>9 THE VIDEOGRAPHER: We're going off the</p> <p>10 record at 2:07 p.m. Central Time.</p> <p>11 (Recess in proceedings.)</p> <p>12 THE VIDEOGRAPHER: We're going back on</p> <p>13 the record at 2:22 p.m. Central Time.</p> <p>14 BY MS. FARLEY:</p> <p>15 Q. Welcome back, Mr. Lucas. Joe is pulling</p> <p>16 up for us our next exhibit, and we'll be marking</p> <p>17 that.</p> <p>18 (Exhibit 74 was marked for</p> <p>19 identification and is attached to the</p> <p>20 transcript.)</p> <p>21 BY MS. FARLEY:</p> <p>22 Q. Your counsel has just produced to us</p> <p>23 Exhibit 74, which is a memo regarding Interim</p> <p>24 Social Media Moderation Guidance, dated February</p> <p>25 7th, 2022.</p>	<p>135</p> <p>1 relation to an athletics account and an athletics</p> <p>2 issue. I guess that's the one piece that I'm</p> <p>3 aware of.</p> <p>4 Q. Okay. Did they complain or ever</p> <p>5 threaten to sue the university for being banned or</p> <p>6 blocked?</p> <p>7 A. Not that I'm aware of, no.</p> <p>8 Q. Okay. Now we can go back to --</p> <p>9 MS. FARLEY: Joe, if you wouldn't mind</p> <p>10 pulling up UW0716.</p> <p>11 (Exhibit 75 was marked for</p> <p>12 identification and is attached to the</p> <p>13 transcript.)</p> <p>14 BY MS. FARLEY:</p> <p>15 Q. I apologize, it's hard to read. This</p> <p>16 is -- this is how it was produced to us, so it</p> <p>17 must be how it was processed.</p> <p>18 MS. FARLEY: So, yeah, thank you for</p> <p>19 Zooming in, Joe.</p> <p>20 Q. If you look towards the bottom of the</p> <p>21 page with the asterisks, you can see it says,</p> <p>22 "Subject re: Article in today's paper."</p> <p>23 Do you see that towards the bottom of</p> <p>24 the page?</p> <p>25 A. The URL of, like, Madison.com, is that</p>
<p>134</p> <p>1 Is that accurate?</p> <p>2 A. Correct.</p> <p>3 Q. Okay. And you had mentioned earlier</p> <p>4 that this was more regarding Twitter, it was</p> <p>5 pertaining more towards Twitter; is that right?</p> <p>6 A. That's correct.</p> <p>7 Q. Was an individual who was blocked</p> <p>8 making -- after making comments or certain</p> <p>9 postings on Twitter?</p> <p>10 A. So the situation with this was related</p> <p>11 to another account on campus, an account manager</p> <p>12 who had a specific question. I believe that they</p> <p>13 had blocked a user on Twitter, who then was</p> <p>14 petitioning to be reinstated and have their</p> <p>15 account unrestricted. And they had asked us for</p> <p>16 guidance. And then we had asked for additional</p> <p>17 guidance from Office of Legal Affairs.</p> <p>18 Q. Okay. And do you know what content they</p> <p>19 had been posting that led them to be banned in the</p> <p>20 first instance?</p> <p>21 A. I don't recall specifically, no.</p> <p>22 Q. Okay. Were they an animal rights</p> <p>23 activist?</p> <p>24 A. No.</p> <p>25 It -- I believe it was -- it was in</p>	<p>136</p> <p>1 what you're refer- -- referencing?</p> <p>2 Q. Yes. Yes.</p> <p>3 It says, "Subject, article in today's</p> <p>4 paper. Hi Meredith, you have likely seen this</p> <p>5 article."</p> <p>6 A. Yes, I see this.</p> <p>7 Q. Okay. And it says "UW Madison Sued for</p> <p>8 Allegedly Hiding Critical Comments From its Social</p> <p>9 Media Accounts." That's the name of the article.</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And if you look at the e-mail</p> <p>13 message from you at 11:02 a.m. --</p> <p>14 MS. FARLEY: It's towards the middle of</p> <p>15 the page, Joe. Perfect. Okay.</p> <p>16 Q. -- you send a message to Tina Nielsen</p> <p>17 and Meredith McGlone, and say that "Any media</p> <p>18 questions or requests can come up to me directly,"</p> <p>19 and then you say, if you see towards the middle</p> <p>20 right there, it says, "I suspect at the end of</p> <p>21 this process, we'll be providing additional social</p> <p>22 media guidance to campus account managers on</p> <p>23 content moderation."</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>

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<p>137</p> <p>1 Q. Did you think at the time that the</p> <p>2 current guidance on account moderation was</p> <p>3 inadequate in some way?</p> <p>4 A. As I stated earlier, I -- I said it's</p> <p>5 possible that in the future we would provide</p> <p>6 additional interim guidance, finalize the interim</p> <p>7 guidance or create a social media policy in the</p> <p>8 future.</p> <p>9 Q. And do you believe that what exists now</p> <p>10 is adequate to inform social media managers about</p> <p>11 what is appropriate under the First Amendment?</p> <p>12 A. Yes.</p> <p>13 Q. Did you have any fear, when you made</p> <p>14 that comment, that social media managers could be</p> <p>15 moderating UW accounts in a way that was not</p> <p>16 permissible?</p> <p>17 A. No.</p> <p>18 Q. Okay. Would you say it's the purpose of</p> <p>19 the Communications Department to promote the</p> <p>20 university and, you know, promote its virtues and</p> <p>21 show it in a positive light?</p> <p>22 A. To share information about the</p> <p>23 university, but to the extent that -- yeah, it's</p> <p>24 sharing its virtues or those are positive things,</p> <p>25 yes.</p>	<p>139</p> <p>1 Is that accurate?</p> <p>2 A. Yes.</p> <p>3 Q. Now, it says -- he says the university</p> <p>4 is getting a lot of negative comments.</p> <p>5 First of all, are you the "John" that he</p> <p>6 mentioned?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And is it fair to say that the</p> <p>9 university tries to limit comments critical of the</p> <p>10 university on its social media pages?</p> <p>11 A. No. I think this one is missing</p> <p>12 additional context.</p> <p>13 This was a case where the university had</p> <p>14 opted to remove or -- something that was once a</p> <p>15 monument in the institution and decided to move it</p> <p>16 off campus because of its -- there was a name that</p> <p>17 was associated with it that was extremely racist.</p> <p>18 We publicized the fact that we were</p> <p>19 doing so. And then I think we were featured on</p> <p>20 Fox News or additional media sites -- media</p> <p>21 outlets. And I think -- my memory of this</p> <p>22 situation was that it was understated and that</p> <p>23 they were not negative comments, but they were</p> <p>24 actually racist, abusive, and actively-threatening</p> <p>25 comments toward the institution because of where</p>
<p>138</p> <p>1 Q. Okay. So along with that would go</p> <p>2 promotion of the university?</p> <p>3 A. Generally, yes.</p> <p>4 Q. Okay. Now, I promise we're nearing the</p> <p>5 end here. I think we only have a couple documents</p> <p>6 left.</p> <p>7 MS. FARLEY: But let's go to UW0415</p> <p>8 please.</p> <p>9 Q. It's probably a lot easier to read, too.</p> <p>10 REMOTE TECHNICIAN: Please stand by.</p> <p>11 (Exhibit 76 was marked for</p> <p>12 identification and is attached to the</p> <p>13 transcript.)</p> <p>14 MS. FARLEY: Okay. Thank you.</p> <p>15 BY MS. FARLEY:</p> <p>16 Q. Here we have what has been marked as</p> <p>17 Exhibit 76. This appears to be a snippet of a</p> <p>18 Microsoft Teams chat with -- and the person who is</p> <p>19 posting in this is Peter Kleppin.</p> <p>20 Is that accurate?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And he says, "Just an FYI...</p> <p>23 getting lots of negative comments on YouTube about</p> <p>24 the rock removal, so I conferred with John and</p> <p>25 decided to disable comments."</p>	<p>140</p> <p>1 this news was featured.</p> <p>2 Q. Okay. So setting aside this particular</p> <p>3 instance, then, does the university -- do the</p> <p>4 social media managers try to limit and moderate</p> <p>5 comments that are critical of the university?</p> <p>6 A. I believe people who are charged with</p> <p>7 operating social media accounts attempt to follow</p> <p>8 the guidance of the policy to the extent that</p> <p>9 they're able in a case-by-case basis.</p> <p>10 Q. And would the policy allow them to</p> <p>11 remove comments that are critical of the</p> <p>12 university?</p> <p>13 A. I mean, if the comments were off topic</p> <p>14 or otherwise counter to the -- the interim</p> <p>15 guidance.</p> <p>16 Q. Okay.</p> <p>17 MS. FARLEY: Can we pull up UW0774.</p> <p>18 REMOTE TECHNICIAN: Please stand by.</p> <p>19 (Exhibit 77 was marked for</p> <p>20 identification and is attached to the</p> <p>21 transcript.)</p> <p>22 MS. FARLEY: Thank you.</p> <p>23 BY MS. FARLEY:</p> <p>24 Q. Okay. We are now looking at what has</p> <p>25 been marked as Exhibit 77, and it appears to be a</p>

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<p>141</p> <p>1 screenshot of a portion of a Microsoft Teams chat 2 between yourself and another individual and Nick 3 Heynen. 4 Is that accurate? 5 A. Yes. 6 Q. Now, it says here that the person you're 7 chatting with is going to be monitoring a PETA 8 protest at noon. 9 Would you consider a protest to be 10 political activity? 11 A. Potentially, yes. 12 Q. And it sounds like the PETA protest 13 would be presumably animal rights-related. Is 14 that accurate? 15 A. Generally so, yes. 16 Q. Is there a reason that this individual 17 would be monitoring the political activity of PETA 18 activists? 19 A. Yes, for the reason that I stated 20 earlier. 21 Q. Can you please elaborate? 22 A. Sure. 23 The comment that I had earlier, that, 24 again, PETA frequently has campaigns that misstate 25 or misinform about the nature of the animal</p>	<p>143</p> <p>1 Q. Were you monitoring PETA's Twitter 2 account? 3 A. Again, for the -- the reasons I just 4 stated, it's in the interest of UW Madison to 5 understand the information that's being shared 6 about it and its activities. 7 Q. So is that a "yes"? 8 Were you monitoring the PETA's Twitter 9 account? 10 A. Yes. I mean, to the extent that 11 monitoring is subscribed to their 12 publicly-available feeds. 13 Q. Okay. Okay. 14 Were you alerting Nate Moll and Kelly 15 Tyrrell to be on alert for any negative animal 16 comments? 17 A. So without seeing the post here, I can't 18 speak to it, but it's entirely possible that PETA 19 had declared it Monkey Day or that PETA had said 20 something that it's, you know, support of monkeys 21 in UW Madison labs. So -- so I believe it was 22 germane to our activities in either of those ways. 23 Q. In the sense that they should be alert 24 to potential comments on social media? 25 A. Yeah, that people were -- you know, PETA</p>
<p>142</p> <p>1 research that takes place at the institution and 2 so it's in the institution's interest, in this 3 case and others, to ensure that there's accurate 4 information being provided about its activities. 5 Q. And in terms of determining and who 6 determines what information is accurate, would 7 that be left to Kelly Tyrrell and Chris Barncard? 8 A. Informed by subject matter experts at 9 the institution, correct. 10 Q. Okay. 11 MS. FARLEY: Let's go to UW0378, please. 12 (Exhibit 78 was marked for 13 identification and is attached to the 14 transcript.) 15 Q. Okay. We're now looking at what has 16 been marked as Exhibit 78. This appears to be a 17 snippet of a Microsoft Teams chat between 18 yourself, Nate Moll, and Kelly Tyrrell. 19 Is that accurate? 20 A. Yes. 21 Q. And in the first post you say, "It's 22 Monkey Day, apparently," and you refer to a 23 Twitter link to PETA's Twitter page; is that 24 correct? 25 A. Yes.</p>	<p>144</p> <p>1 and others may be talking about the university, 2 its animal research or labs. 3 Q. Okay. 4 MS. FARLEY: Let's go to UW0696. 5 (Exhibit 79 was marked for 6 identification and is attached to the 7 transcript.) 8 BY MS. FARLEY: 9 Q. Okay. So we're looking at what has been 10 marked as Exhibit 79. This appears to be a 11 snippet or a screenshot of a Microsoft Teams chat 12 with 11 participants, among them Nate Moll, 13 yourself, and Nick Heynen. 14 Is that correct? 15 A. Yes. 16 Q. Okay. And it looks like, in response to 17 Ms. -- Mr. Moll's question to you, you want to 18 make him aware of "new PETA inbound today." 19 Can you describe what you meant by that? 20 A. Yes. In the same way as the -- the last 21 post, that PETA was either sharing information 22 about UW Madison or something relevant to UW 23 Madison research on this particular day. 24 Q. In the sense that this particular 25 content may need to be moderated?</p>

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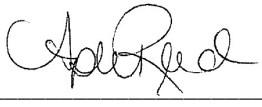
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<p>145</p> <p>1 A. Reviewed for accuracy and the likelihood 2 that, you know, any time PETA would post or tag us 3 in particular posts, that it would result in 4 mentions or, you know, other comments to UW 5 Madison. 6 Q. Okay. 7 A. I would just say in relation to Twitter, 8 though, because it's a different platform, there 9 is not moderation on -- on Twitter. 10 Q. Okay. 11 MS. FARLEY: And let's go to UW0719, 12 please. 13 (Exhibit 80 was marked for 14 identification and is attached to the 15 transcript.) 16 BY MS. FARLEY: 17 Q. Okay. This document has been marked as 18 Exhibit 80, and it looks like a portion -- a 19 screen snippet of a portion of Microsoft Teams 20 chat as well from Amy Gill. 21 Do you know who Amy Gill is? 22 A. Amy Gill is a video producer in 23 University Communications. 24 Q. And what is her relationship to comment 25 moderation on social media?</p>	<p>147</p> <p>1 Q. You actually received it from the Office 2 of Legal Affairs on February 23rd; is that right? 3 A. Yes, that's correct. 4 Q. Okay. All right. 5 MS. LODAHL: Counsel, I have no further 6 questions. 7 MS. FARLEY: Okay. Thank you, 8 Mr. Lucas. 9 THE VIDEOGRAPHER: If there are no 10 questions, this marks the end of the video 11 deposition of John Lucas. We are going off 12 the record and ending his deposition at 2:43 13 p.m. Central Time. 14 (Off Video Record.) 15 THE COURT REPORTER: Counsel, if you 16 want to let me know what your orders are, 17 please. 18 MS. LODAHL: Sure. This is Attorney 19 Lodahl. We'll take an electronic version of 20 the transcript and a condensed format. 21 THE COURT REPORTER: Thank you. 22 MS. FARLEY: And this is Attorney 23 Farley. We will do the same as well. 24 THE COURT REPORTER: Thank you. 25 REMOTE TECHNICIAN: Ms. Lodahl and</p>
<p>146</p> <p>1 A. I don't know what -- what she's 2 particularly referencing. The only platform that 3 she would generally be posting on might be 4 YouTube. 5 Q. Okay. Okay. 6 MS. FARLEY: All right. Lynn, well, 7 that is basically all I have, unless you have 8 anything on your end. 9 MS. LODAHL: I just have one, maybe two 10 questions on a limited point. 11 MS. FARLEY: Okay. 12 MS. LODAHL: Should I go ahead? 13 MS. FARLEY: Yeah, go for it. 14 MS. LODAHL: Okay. 15 EXAMINATION 16 BY MS. LODAHL: 17 Q. All right. So, John, I want to refer 18 back to what was marked as Exhibit 74. I don't -- 19 MS. LODAHL: Owe could -- we could pull 20 it up, I suppose. 21 REMOTE TECHNICIAN: Please stand by. 22 Q. Okay. John, this memorandum is dated 23 February 7th, but that's not the date you received 24 it; correct? 25 A. That's correct.</p>	<p>148</p> <p>1 Ms. Farley, would you like the exhibits 2 attached to the transcript? 3 MS. LODAHL: Yes, please. 4 REMOTE TECHNICIAN: That was Ms. Lodahl. 5 And Ms. Farley? 6 MS. FARLEY: Yes. 7 REMOTE TECHNICIAN: Thank you. 8 9 10 AND FURTHER THIS DEPONENT SAITH NOT. 11 SIGNATURE RIGHTS RESERVED. 12 (Videotaped Deposition concluded at 2:44 p.m. 13 Central Standard Time.) 14 15 * * * * * 16 17 18 19 20 21 22 23 24 25</p>

Transcript of John Lucas
Conducted on March 11, 2022

38 (149 to 152)

149

1 STATE OF NORTH CAROLINA:
2 COUNTY OF MECKLENBURG :
3 I, April Reid, Court Reporter and Notary
4 Public in and for the State of North Carolina,
5 and whose commission expires March 4, 2025,
6 do certify that the aforementioned appeared
7 before me, was sworn by me, and was thereupon
8 examined by counsel; and that the foregoing is a
9 true, correct, and full transcript of the
10 testimony adduced.
11 I further certify that I am neither
12 related to nor associated with any counsel or
13 party to this proceeding, nor otherwise interested
14 in the event thereof.
15 Given under my hand and notarial seal in
16 Charlotte, North Carolina, this 22nd day of March,
17 2022.
18
19 
20
21 April Reid, RPR, CRR, Notary Public
22 State of North Carolina, County of Mecklenburg
23 Notary Registration No. 20012210079
24
25

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